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Insurance Laws

OF

South Carolina

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Sections Relating to Insurance
Taken from the 1932 Code of Laws of South Carolina
and
Acts Passed in 1933 and 1934

Part I Civil Code
Part II Criminal Code

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COMPILATION OF THE INSURANCE LAWS OF SOUTH CAROLINA, MADE BY SAM B. KING, INSURANCE COMMISSIONER, AT COLUMBIA, S. C., 1934

Part I—Civil Code

INSURANCE DEPARTMENT AND INSURANCE COMMISSIONER

(7936) Insurance Department Established.—There is hereby established a separate and distinct department of the State Government, to be known as the Insurance Department, which shall be charged with the enforcement and execution of the laws now in existence, and which may hereafter be passed, relating to insurance and other subjects, which may be placed under the supervision of this department by the laws of this State.

Civ. C. '22, § 4054; Civ. C. '12, § 2690; 1908, XXV, 999.

(7937) Insurance Commissioner.—The chief officer of the said department shall be denominated the Insurance Commissioner. He shall be paid an annual salary of twenty-five hundred dollars, payable in monthly installments, in the same manner as other State officers are now paid: *Provided*, The Insurance Commissioner shall have no interest in any insurance company or in any insurance agency in this State or in any State while holding said office.

Civ. C. '22, § 4055; Civ. C. '12, § 2691; 1908, XXV, 999.

(7938) Election of Insurance Commissioner—Term of Office.—Said Insurance Commissioner shall be elected by the General Assembly for a term of four years. In case a vacancy should occur, the Governor shall appoint for the unexpired term: *Provided*, That no member of the General Assembly shall be eligible to said election nor be elected to the office while a member of either branch of the General Assembly.

Civ. C. '22, § 4057; Civ. C. '12, § 2693; 1908, XXV, 999; 1929, XXXVI, 93.

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(7939) Bond of Insurance Commissioner.—Every person appointed as Insurance Commissioner shall, before entering upon or continuing to discharge the duties of his office, take the same oath of office as now required of other State officers, and give bond to the State, in the sum of twenty-five thousand ($25,000.00) dollars with sufficient surety, to be approved by the State Treasurer, for the faithful performance of all the duties required of him under the law during the term of his office.

Civ. C. '22, § 4058; Civ. C. '12, § 2694; 1908, XXV, 999.

(7940) Duties of Insurance Commissioner.—There shall devolve upon said Insurance Commissioner all the duties formerly required or devolving upon the State Treasurer and the Comptroller General touching or relating to matters pertaining to insurance of any and all kinds.

Civ. C. '22, § 4059; Civ. C. '12, § 2695; 1908, XXV, 999.

(7941) How Expenses of Insurance Department to be Paid—Annual License Fees.—All expenses of the insurance department, including all salaries of the officers and employees, proper office furniture, printing, stationery, stamps and all other supplies and expenses, shall be paid out of the annual insurance department license fees, by the State Treasurer, upon warrants of the Comptroller General, approved by the Insurance Commissioner, who shall attach itemized statements of all expenditures, and shall publish the same in his annual report. The Insurance Commissioner, for this purpose, shall collect, in addition to all other license fees or taxes now or hereafter provided by law, from all companies which shall be licensed by him to do business in this State, the following annual department license fees, to wit: From each life insurance company doing business on a legal reserve basis, the sum of fifty dollars per annum; from each fire insurance company, the sum of forty dollars; from each accident or casualty or surety company, the sum of forty dollars; from each company doing exclusively a marine business, the sum of fifteen dollars; for each mutual company doing business in more than one county, twenty-five dollars; from each mutual company not doing business in more than one county, ten dollars; from each company, not otherwise specified, fifty dollars. All of said insurance department license fees, collected by the Insurance Commissioner, shall be paid

over to the State Treasurer at least once a month. A separate account shall be kept of all said fees and any balance unexpended on January 1st of each year shall be covered into the general treasury: *Provided*, That insurance companies doing a plate glass insurance business only and exclusively shall be charged a license fee of ten dollars.

Civ. C. '22, § 4060; Civ. C. '12, § 2696; 1909, XXVI, 7; 1918, XXX 821.

(7942) Annual Report of Insurance Commissioner—Duties and Powers.—The Insurance Commissioner shall submit to the General Assembly, annually, a report of his official acts and doings, and of all companies, associations or orders under his department doing business in this State, with condensed statement of their report made to him, together with a statement of all licenses, taxes and fees received by him through such companies and paid by him to the State Treasurer, and he shall at each session of the General Assembly submit, through the Governor, such annual reports and statements. The Insurance Commissioner shall make, from time to time, recommendations as to any change in the law of this State which should, in his opinion, be made, relating to insurance and other subjects under his department. He shall keep on file in his office all reports and papers received by him in the discharge of his duty. His office shall be deemed a public office, and the records, books, and papers thereof, or on file therein, shall be deemed public records of the State. He shall have a seal, with a suitable inscription, an impression of which shall be filed with the Secretary of State. Every certificate or other paper executed by said Commissioner, in pursuance of any authority conferred upon him by law, and sealed with the seal of his office, and all copies of papers certified by said Commissioner, and authenticated by his seal, shall in all cases be evidence, equally and in like manner as the original thereof, and shall have the same force and effect as the originals would have in any suit or proceeding in any Court of this State.

Civ. C. '22, § 4061; Civ. C. '12, § 2697; 1908, XXV, 999; 1909, XXVI, 7.

(7944) Duties and Powers of Insurance Commissioner.—Before granting a certificate of authority to do business in this State to any company, the Insurance Commissioner shall be satisfied by proper evidence that such applicant for license is duly qualified to do business under the laws of this State; that

it is safe and solvent; that its dealings are fair and equitable and that it conducts its business in a manner not contrary to the public interests. He shall require every domestic company to keep its books, records, accounts and vouchers in such manner that he or his authorized representatives may readily verify them and ascertain whether the provisions of the law have been complied with. He shall have authority to examine into the conditions of any company doing business in this State, and shall have power to summon witnesses and take testimony as he may deem fit and proper for the protection of the public interest of the State. At least once in two years, and whenever he determines it to be prudent, he shall personally, or by a deputy, visit each domestic company and thoroughly inspect and examine its affairs, determine and fix the value of its assets and test and declare its ability to fulfill its obligations and maintain its solvency according to proper standards. Whenever he determines it to be prudent for the protection of the policyholders in this State, he shall in like manner visit and examine or cause to be visited and examined by some competent person or persons whom he may appoint for that purpose, any foreign company applying for admission or already admitted to do business in this State, and such company shall pay the reasonable cost for such examination. Any person, body politic of corporate, partnership or association who or which shall make, negotiate or solicit within this State any contract of insurance or insurances or connect any person or persons with them in any policy they may at the time hold, or shall do any business of insurance of any kind, or make any guaranty, contract or pledge for the payment of annuities or endowments or anything of value, whether the amount thereof be fixed or contingent, to the families or representatives of any policyholder or certificate holder or the like, shall be subject to the provisions of this Section. All foreign building and loan associations, foreign land associations and such like companies shall be subject to the terms of this Article.

Civ. C. '22, § 4063; Civ. C. '12, § 2699; 1908, XXV, 999; 1909, XXVI, 7; 1910, XXVI, 773.

(7945) When Licenses May Be Revoked or Suspended.—If the Commissioner is of opinion upon examniation or other evidence that a company is in an unsound condition, that it has

failed to comply with the law or with the provisions of its charter, or that its condition is such as to render its proceedings hazardous to the public or to its policyholders, or that its funds, if it is a life insurance company, are less than its liabilities, exclusive of its capital, or if its officers or agents refuse to submit to examination or to perform any legal obligation relative, he shall revoke, or suspend all certificates of authority granted to said company, its officers or agents, and shall cause notices thereof to be published in a newspaper of general circulation in this State, and no new business shall thereafter be done by it or its agents in this State while such default or disability continues, nor until its authority to do business is restored by the Commissioner. Unless the ground for revocation relates only to the financial condition or soundness of the company, or to deficiency in its assets, he shall notify the company not less than thirty days before revoking its authority to do business in this State and he shall specify in the notice the particulars of the alleged violation of the law, or its charter or grounds for revocation, and the proper opportunity be afforded such company to be heard in answer thereto. During the time of suspension of certificate of authority no domestic company or officers thereof shall pay out any funds belonging to said company without first receiving the consent and approval of the Insurance Commissioner thereto.

Civ. C. '22, § 4064; Civ. C. '12,§ 2700; 1908, XXX, 999; 1909, XXVI, 10.
See Criminal Code.
State ex rel. Sims v. McMaster, Insurance Com'r et al,, 95 S. C. 476, 79 S. E. 405.

(7946) Order, Ruling or Decision of Insurance Commissioner Subject to Review.—That any order, ruling or decision of the Insurance Commissioner in all matters, either of law or discretion, within the jurisdiction of his department shall be subject to review by *certiorari* or mandamus proceedings before any Circuit Judge or Justice of the Supreme Court, which may be held at chambers or in open Court, upon thirty days' notice to the Insurance Commissioner.

Civ. C. '22, § 4065; 1912, XXVII, 768.

(7964) Insurance Commissioner to Accept Service for Process.—That every foreign insurance company shall, before being licensed, appoint in writing the Insurance Commissioner and his successors in office to be its true and lawful attorney upon whom all legal process in any action or proceeding against

it shall be served, and in such writing shall agree that any lawful process against it which is served upon such attorney shall be of the same legal force and validity as if served upon the company, and that the authority shall continue in force so long as any liability remains outstanding in the State. Copies of such appointment, certified by the Insurance Commissioner shall be deemed sufficient evidence thereof, and shall be admitted in evidence with the same force and effect as the original thereof might be admitted. Service shall only be made upon such attorney, must be in duplicate and shall be deemed sufficient service upon such company. When legal process against such company is served upon said Insurance Commissioner, he shall forthwith forward by registered mail one of the duplicate copies prepaid directed to the company at its home office.

Civ. C. '22, § 4082; Civ. '12, § 2705; 1910, XXVI, 775; 1917, XXX, 38.
New York Life Ins. Co. vs. McMaster, 84, S. C. 495, 501, 66 S. E. 877.

(7966) Commissioner to Have Free Access to Books in Case of a Receivership.—The Insurance Commissioner in every case in which any Court in this State has appointed a receiver for any company under the supervision of the Insurance Commissioner, upon his filing a petition for intervention, shall have free access to the official books and papers of such receiver as to all matters connected therewith, during the progress of said cause, and if, in his opinion, the receiver has failed in his duty in any way the Insurance Commissioner shall have the right to certify the same to the Court.

Civ. C. '22, § 4084; Civ. C. '12, § 2707; 1910, XXVI, 775.

(7991) How Insurance Companies May Make Deposits in This State to Secure Policyholders.—The Insurance Commissioner in his official capacity shall take and hold, in trust, deposits made by any domestic insurance company for the purpose of complying with the laws of any other State to enable such company to do business in such State. The company making such deposit shall be entitled to the income thereof, and may, from time to time, with the consent of the Insurance Commissioner, and when not forbidden by the law under which the deposit is made, change, in whole or in part, the securities which compose the deposit for other solvent securities of equal par value; said securities to be approved by the Insurance Commissioner. Upon request of any domestic insurance company

such officer may return to such company the whole or any portion of the securities of such company held by him on deposit, when he shall be satisfied that the securities so asked to be returned are subject to no liability and not required to be longer held by any provision of law or purpose of the original deposit; and he may return to the trustees or other representatives authorized for that purpose, of a foreign insurance company, any deposit made by such company, when it shall appear that such company has ceased to do business in the State and is under no obligation to policyholders or other persons in the State for whose benefit such deposit was made. An insurance company which has made a deposit in this State, pursuant to this Chapter, or its trustees or resident managers in the United States, or the State Insurance Commissioner, or any creditor of such company, may, at any time, bring, in the Circuit Court for the County of Richland, an action against the State and other parties properly joined therein, to enforce, administer or terminate the trust created by such deposit. The process in such action shall be served on the officer of the State having the deposit, who shall appear and answer in behalf of the State and perform such orders and judgments as the Court may make in such action.

Civ. C. '22, § 4105; Civ. C. '12, § 2727; 1908, XXV, 1108.

(7943) Clerical Aid of Insurance Commissioner.—The Insurance Commissioner may employ in his department such clerical aid as may be necessary not to exceed two thousand dollars per annum; and from time to time he may employ an actuary or a deputy, or an attorney to aid in the enforcement of the laws, as such services may be needed, payment for which shall be made out of the annual department licenses fees herein provided.

Civ. C. '22, § 4062; Civ. C. '12, §2698; 1908, XXV, 999; 1909, XXVI, 7.

(3188) (*In Part.) State Funds to Be Deposited in State Treasury When Collected.—All State departments, boards, bureaus, commissions or other State agencies charged with the collection of any taxes, licenses, fees, interest or any income to the State shall, with ordinary business promptness, deposit the same when collected with or to the credit of the State Treasurer, either at his office in the State Capital, or in such

bank or banking institution within the State as shall be designated by the State Tresurer: *Provided*, That this section shall not apply to the collection of State taxes by County Treasurers, who shall collect and remit as required by the Comptroller General.

The State Treasurer shall designate a form of deposit slip to be used by each department and institution in making deposit and it shall be the duty of each department and institution to provide a sufficient amount of such deposit slips for its use, and to strictly adhere to the system prescribed by the State Treasurer in the handling of State funds.

All provisions of law now providing for periodical deposits with the State Treasurer by any department, board, bureau, or commission in the State and all other acts or parts of acts, sections or parts of sections inconsistent with this section are hereby repealed.

Civ. C. '22, § 882, 883, 884; 1921, XXXII, 114; 1930, XXXVI, 1361.

*First Paragraph Omitted.

INVESTIGATION OF FIRES

(7998) Examinations of Fires to be Made.—It shall be the duty of said Insurance Commissioner to examine, or cause examinations to be made, either personally of by his deputy, into the cause, circumstances and origin of all fires occurring within the State, to which his attention has been called, by which property is accidentally or unlawfully burned, destroyed or damaged, whenever in his judgment the evidence warrants, and he shall specially examine and decide whether the fire was the result of carelessness or the act of an incendiary. The said Insurance Commissioner or his deputy shall, when in his opinion said proceedings are necessary, take or cause to be taken the testimony, on oath, of all persons supposed to be cognizant of any facts or to have means of knowledge in relation to the matter as to which an examination is herein required to be made, and shall cause the same to be reduced to writing, and if he shall be of the opinion that there is evidence sufficient to charge any person with the crime of arson, he shall cause such person to be arrested and charged with such offense, and shall furnish to the Solicitor of the district all such evidence, together with the names of witnesses and all the information obtained by

him, including a copy of all pertinent and material testimony in the case.

Civ. C. '22, § 4112; Civ. C. '12, § 2733; 1904, XXIV, 472.

(7999) Insurance Commissioner Has Powers of Magistrate.—The Insurance Commissioner, or his deputy appointed to conduct such examination, shall have the power of a Magistrate for the purpose of summoning and compelling the attendance of witnesses to testify in relation to any matter which is by the provisions of this Article a subject of inquiry and investigation. Said Insurance Commissioner or deputy may also administer oaths and affirmations to persons appearing as witnesses before them; and false swearing in any matter of proceeding aforesaid shall be deemed perjury, and shall be punished as such. Said Insurance Commissioner or deputy shall have authority at all times in performance of the duties imposed by the provisions of this Article to enter upon and examine buildings or premises where any fire has occurred, and other buildings and premises adjoining, or near the same, in all investigations to be held by or under the direction of the Insurance Commissioner or his deputy.

Civ. C. '22, § 4113; Civ. C. '12, § 2734; 1904, XXIV, 472.

(8000) Insurance Commissioner Has Power to Enter Premises.—The Insurance Commissioner or his deputy, or the Chief of Fire Department or Chief of Police or Intendent (where there is no Chief of Fire Department), or County Sheriff, shall have the right, at all reasonable hours, for the purpose of examination, to enter into and upon all buildings and premises within their jurisdiction, and whenever any of said officers shall find in any building or upon any premises combustible material or conditions dangerous to the safety of such building or premises they shall order the same to be removed, or remedied, and such order shall be forthwith complied with by the owner or occupant of said building or premises: *Provided, however,* That if the said owner or occupant shall deem himself aggrieved by such order, he may, within twenty-four hours, appeal to the Insurance Commissioner, and the cause of the complaint shall be at once investigated by the direction of the latter, and unless by his authority the order of the Fire Chief or Chief of Police above named is revoked, such order shall remain in force, and be forthwith complied with by said owner or occupant. The Insurance

Commissioner or his deputy, Fire Chief or Chief of Police or County Sheriff shall, as aforesaid, make an immediate investigation as to the presence of combustible material or the existence of inflammable conditions in any building, or upon any premises under their jurisdiction, upon complaint of any person having an interest in said building or premises or property adjacent thereto.

Civ. C. '22, § 4114; Civ. C. '12, § 2735; 1904, XXIV, 472.

(949) (Excerpt from Code of Criminal Procedure.)—In the investigation of supposed incendiary fires the Insurance Commissioner, or his deputy, shall have the right to search for property or goods supposed to have been moved from the building burned.

Cr. P. '22, § 46; Cr. C. '12, § 46; Cr. C. '02, § 36; R. S. 32; 1885, XIX, 251; 1912, XXVII, 534.

(5100) Stairways—Fire Escapes.—All hotels hereafter constructed in this State over two stories in height and over one hundred feet in length, shall be constructed so that there shall be at least two stairs for the use of guests leading from the ground floor to the uppermost story, and for larger buildings such number as the State Insurance Commissioner shall designate. Every hotel in this State over two stories in height shall be provided, without delay, with permanent iron balconies with iron stairs leading from one balcony to the other, above the ground floor, and with stairway or ladder extending to the ground, in case such hotel is over one hundred and fifty feet in length, and in other cases such number as may be directed by the State Insurance Commissioner or agent: *Provided*, That where said hotels already built and are, in the opinion of the State Insurance Commissioner or agent provided with sufficient inner stairways, so located as to furnish sufficient egress in case of fire, the aforesaid official may waive the requirement for outside iron balconies and stairs. Such balconies and iron stairs shall be constructed at the expense of the owner of said hotel: *Provided*, That where hotels are already built where fire escapes are located so as to go through any room, this section shall not apply: *Provided*, That this article not apply to private residences at which lodgers are not received for hire.

Civ. C. '22, § 2369; 1920, XXXI, 860.

(8001) Expenses to be Paid by Insurance Companies.—Any expenses, including counsel, expenses of deputy, detectives and officers, incurred by the Insurance Commissioner or his deputy in the performance of the duties imposed upon him in the investigation into the causes of fires, the inspection of buildings and premises, the investigation of charges of discrimination of rates, shall be defrayed by the fire insurance companies doing business in this State, and a tax of one-tenth of one per cent. on the gross premium receipts of all fire insurance companies is hereby levied for this purpose, to be collected by said Insurance Commissioner as other taxes on fire insurance companies are collected. The Insurance Commissioner shall keep a separate account of all moneys received and disbursed under the provisions of this Section, and shall include same in his annual report.

Civ. C. '22, § 4115; Civ. C. '12, § 2736; 1904, XXIV, 472.

(8002) Report of Commissioner.—The Insurance Commissioner shall submit annually, as early as consistent with full and accurate preparations, and not later than the first of December, a detailed report of his special action under Sections 8000 and 8001, and it shall be embodied in his annual report to the Legislature.

Civ. C. '22, § 4116; Civ. '12, § 2737; 1904, XXIV, 472.

GENERAL LAWS APPLYING TO COMPANIES

(7969) Foreign Insurance and Other Companies Must Obtain License.—Every foreign insurance company of any class—fire, life, marine, surety, security, guarantee, hailstorm, live stock, accident, plate glass, and other like insurance companies—foreign land associations, foreign building and loan associations, foreign banking associations, and all other like classes of like business not incorporated under the laws of South Carolina, except national banks and except benevolent institutions organized under the grand lodge system, shall each, before transacting any business in this State, pay an annual license fee of one hundred dollars to the Insurance Commissioner on or before the thirty-first day of March in each year, to be deposited by him in the treasury of the State.

The license issued by the Insurance Commissioner shall give

to the company obtaining the same power and authority to appoint any number of agents to take such risks or transact any business of insurance in each and every county of the State, and the same shall be so granted as to expire on the 31st of March of each year. But the Insurance Commissioner must be notified of such appointment before such agent takes any risks or transacts any business, giving the postoffice address and residence of such agent.

Civ. C. '22, § 4087; Civ. '12, § 2710; Civ. '02, § 1800; G. S. 1353; R. S. 1472; 1892, XXI, 89.

(7950) Affidavit to Be Filed.—Before issuing a license to any company to do business in this State, the Insurance Commissioner shall require in every case that each such company shall file with him the affidavit of its president or chief executive officer so as to bind the company, that it has not violated any of the laws of this State, and that it accepts the terms and obligations imposed by the laws of this State as part of the consideration for such license.

Civ. C. '22, § 4068; Civ. '12, § 2703; 1909, XXVI, 7.

(7947) Insurance Companies to Give Bond Before Being Licensed.—Before licensing any insurance company to do business in this State, the Insurance Commissioner shall require each such company to deposit with him an approved bond or approved securities, in the discretion of the Commissioner, as follows: Each legal reserve life insurance company, twenty thousand dollars; each fire, accident, or casualty or surety insurance company, or any company not herein specified, ten thousand dollars: *Provided*, That domestic industrial insurance companies shall in no case be required to deposit more than the legal reserve on their policies, but not less than one thousand dollars, which may be made at the rate of five hundred dollars a year, on April 1 of each year; each domestic mutual life insurance company doing business on a recognized table of mortality with interest assumption not higher than four per centum per annum, not less than three thousand dollars. But each such domestic company shall keep on deposit with the Insurance Commissioner at all times, not less than the legal reserve on all of its outstanding policies: *Provided, further*, That the terms of this Section shall not apply to domestic mutual assessment companies not doing business in more than two adjoining coun-

ties. If a bond be given, it shall be conditioned to pay any judgment entered up against any such company in any Court of competent jurisdiction in this State, and such judgment shall be a lien upon the bond or securities. In case a bond is given, the judgment creditor shall have the right to bring suit on said bond for the satisfaction of the judgment in the county in which the judgment is received.

Civ. C. '22, § 4066; Civ. '12, § 2701; 1910, XXVI, 774.

(7992) Payment of Taxes by Insurance Companies Condition Precedent to Doing Business.—Every foreign insurance company of any class—fire, life, marine, surety, security, guarantee, hailstorm, live stock, accident, plate glass, and other like insurance companies—and all other like classes of like business not incorporated under the laws of the State of South Carolina, except benevolent institutions operating under the grand lodge system, shall, as a condition for the privilege of entering into and doing business in this State, pay all taxes and perform all duties now or hereafter prescribed by law, or having paid and recovered such taxes by suit or otherwise, shall in addition to the payment of all State and county taxes now or hereafter required by law, and the payment of all State and county taxes and the performance of all duties of any kind whatsoever imposed upon such foreign companies, shall be a condition and part of the terms upon which they are allowed to enter this State and to do business herein: *Provided*, That nothing herein contained shall be construed to affect the right of the corporate authorities of the cities and towns of the State to levy, assess or collect taxes or licenses from said insurance companies for municipal purposes: *Provided*, That nothing contained in this Section shall deprive such foreign companies of any right they may have to test, in any Court established under the laws of this State which may have jurisdiction, the constitutionality of any Act of the Legislature imposing duties or burdens upon them.

Civ. C. '22, § 4106; Civ. C. '12, § 2728; 1909, XXVI, 118.

(7967) Terms on Which Insurance Companies May Do Business in This State.—It shall be unlawful hereafter for any insurance company or association to transact any business in this State unless possessed of at least one hundred thousand dollars of surplus or capital, or in lieu thereof, shall file with the Insurance Commissioner the certificate of the official of some

State of the United States, under his hand and official seal, that he holds on deposit or in trust, for the benefit of all policyholders, or members of such company or association, securities worth at least one hudred thousand dollars, or in the absence of such capital or deposit, then to deposit with the Insurance Commissioner of South Carolina valid securities aggregating ten thousand dollars, or a bond for said amount, made by a solvent security company, said Insurance Commissioner to be the judge of the validity of such securities and bond, which bond shall be conditioned to pay any judgment entered up in any Court of competent jurisdiction in this State upon a policy of insurance issued to any citizen of this State by any such company, and said judgment shall be a lien upon such securities.

Civ. C. '22, § 4085; Civ. C. '12, § 2708; 1905, XXV, 841.

(7968) Penalty for Violation of Provisions.—Should any such insurance company or association violate the provisions of this Chapter, such company shall be fined in a sum not to exceed one thousand dollars and not less than five hundred dollars, to be recovered in any Court of competent jurisdiction in this State, to be recovered by any citizen of this State having a policy of insurance in said company: *Provided,* That nothing in this Chapter shall release any such company, companies or associations violating the provisions hereof upon any policy issued by it or them.

Civ. C. '22, § 4086; Civ. C. '12, § 2709; Civ. C. '02, § 1798; 1897, XXVI, 461.

(7949) (As Amended by Act 848 of 1934.) 1% Premium Tax.—The Insurance Commissioner of South Carolina is hereby directed to require all insurance companies doing business in this State, including all domestic companies and all other companies of any class licensed by such Insurance Commissioner and not incorporated under the laws of South Carolina to pay, in addition to the annual license fee, now provided by law, a graduated license fee in an amount equal to one (1%) per cent. of the total premiums collected in the State, less return premiums for cancellation on risks: *Provided,* That the terms of this Act shall not apply to domestic insurance companies: and *Provided, further,* That mutual fire insurance companies of other States, admitted to do business in this State, employing no agents, writing no business except on the property of its mem-

bers, and doing business without profit shall pay annually on or before the first day of March, in addition to all other license fees which they are now required by law to pay, a graduated annual license fee in an amount equal to one (1%) per centum of the premiums and premium deposits and assessments collected by them in the State during the year ending on the thirty-first day of December next preceding, after deducting from such premiums and premium deposits and assessments the so-called dividends or unused or unabsorbed portion of the premiums and premium deposits and assessments applied or credited in part payment of such premiums or premium deposits and assessments or returned to policyholders in cash or otherwise during the year for which the said tax is computed.

The one (1%) per cent fee as provided for in the preceding paragraph shall be paid into the State Treasury for State purposes, and the Insurance Commissioner of South Carolina is hereby required to collect said fee as other fees are collected and pay over to the State Treasurer.

This Section shall not be construed to in any way affect or reduce the annual license fees provided to be paid under existing laws, but it is intended to provide for the payment of an additional fee and the proceeds to be derived from the collection thereof shall be used for State purposes.

(7948) Semi-Annual License Fees to Be Paid—Returns of Premiums Collected.—In addition to the annual license fees now provided by law, the Commissioner shall require each foreign life insurance company of any class licensed by him not incorporated under the laws of the State of South Carolina, except fraternal benefit orders operating under the grand lodge system, to pay as an additional and graded license fee an amount equal to two per centum on the total premiums, *i. e.*, total premium income or total premium receipts from the State, less any dividend or bonuses paid in cash or applied in abatement of premiums of such company as collected from citizens of or residents of this State during the time the company has done business in this State since making last such return. Such return shall be made under oath by an executive officer of the company: *Provided*, That if the executive officer of the company shall file with the Insurance Commissioner a sworn statement showing that at least one-fourth of the reserve on all

policies issued in South Carolina is invested in any or all of the following securities or property, to wit: Notes or bonds of the State of South Carolina or of counties or municipalities of the State or of subdivisions thereof; or first mortgage bonds of real estate in this State; or first mortgage bonds of solvent domestic or domesticated corporations whose improved property is situate entirely within this State and which are owned and controlled independently of foreign corporations and operated entirely within the State; or average daily balance on deposits in banks of this State maintained continuously for six months next preceding date of such return; or any property situate within the State and returned for taxes therein, at the value at which it is returned, then, and in that case, the additional license fee on premiums collected during the time such investments have been actually made and maintained shall be one and three-fourths per centum; under like conditions, if said investments be one-half of said reserve, the additional license fee shall be one and one-half per centum; under like conditions, if the investment shall be three-fourths of said reserve, the additional license fee shall be one and one-fourth per centum, and, if the entire reserve be so invested, under like conditions, the additional license fee on said premium receipts shall be one per cent. In addition to the annual license fee now provided by law, the Insurance Commissioner shall require each foreign fire insurance company, each foreign accident and health, each foreign casualty or surety company, and all other companies of any class licensed by him not incorporated under the laws of the State of South Carolina not hereinbefore specifically mentioned to pay as an additional and graded license fee an amount equal to two per cent. on the total premiums, *i. e.*, total income or total receipts from the State, less return premiums for cancellation on risks in this State during the time the company has done business in this State since last such return. Such returns shall be made under oath by an executive officer of the company: *Provided,* That if the executive officer of the company shall file with the Insurance Commissioner a sworn statement showing that at least one-fourth of the premium receipts on all risks in South Carolina is invested in the securities named in this Section, then, and in that case, the additional license fee on premiums collected during the time such investments have been

actually made and sustained shall be one and three-fourths per centum; under like conditions, if said investments be one-half of said premium receipts, the additional license fee shall be one and one-half per centum; under like conditions, if the investments shall be three-fourths of said premium receipts, the additional license fee shall be one and one-fourth per centum; if the entire premium receipts be so invested, under like conditions, the additional license fee on said premium receipts shall be one per cent.: *Provided, further,* That the one-half of the said additional license fee collected under the terms of this Section is allotted to the several counties, respectively, in proportion to said premiums collected in said counties, and the same is hereby appropriated to ordinary county purposes, and no additional license fee or county tax shall be levied on such companies. At the close of the semi-annual period, or as soon thereafter as possible, the Insurance Commissioner shall furnish the State Treasurer a statement showing the amount of said premiums collected by each company in each of the several counties of the State, and the amount of additional license fees collected thereon; and the State Treasurer, upon a warrant from the Comptroller General, shall pay unto the County Treasurer of each county one-half of the additional license fee collected as aforesaid on the said premiums collected by each insurance company in that county: *Provided,* That nothing in this Article or any other Article shall be construed as preventing any municipality from levying and collecting license fees or taxes in accordance with its ordinances. The return of said premium collections shall be made within thirty days after the 30th day of June and the 31st day of December of each year, and, if the returns are not so made, the Insurance Commissioner may suspend the license of the company until such returns are made. The Attorney General shall bring suit in the name of the State to collect any unpaid portion of license fees provided herein.

Civ. C. '22, § 4067; Civ. '12, § 2702; 1909, XXVI, 12.

(7994) No Distinction to Be Made Between Individuals—Not to Give Rebates.—No insurance company doing business in this State shall make or permit any distinction in favor of individuals between insurants (the insured) of the same class, in the amount of the payment of premiums or rates charged for policies of insurance, or in the dividends or other benefits

payable thereon, or in any other of the terms and conditions of the contracts it makes. Nor shall any such company, or agent thereof, make any contract of insurance or agreement as to such contract other than as plainly expressed in the policy issued thereon; nor shall any such company, or any officer or agent, solicitor or representative thereof, pay, allow or give, or offer to pay, allow or give, directly or indirectly, as inducement to insurance, any rebate or premium payable on the policy, or any special favor or advantage in the dividends or other benefits to accrue thereon, or any paid employment or contract for services of any kind, any valuable consideration or inducement whatever not specified in the policy contract of insurance; nor give, sell or purchase, or offer to give, sell or purchase, as inducement to insurance or in connection therewith, any stocks, bonds or other securities of any insurance company or other corporation, association or partnership, or any dividends or profits to accrue thereon, or anything of value whatever not specified in the policy.

Civ. C. '22, § 4108; Civ. '12, § 2730; 1908, XXV, 1110; 1920, XXXI, 1103.

(7995) Making Loans on Real Estate Mortgages Lawful.—It shall not be considered in violation of Section 7994 and the Criminal Laws of South Carolina to offer to make or the making of loans to citizens of this State to be secured by mortgage of real estate or other collateral security.

Civ. C. '22, § 4109; 1915, XXIX, 176.

(7996) Certain Inducements Which Must Not Be Offered—Penalty.—No insurance company shall issue in this State, nor permit its agents, officers or employees to issue in this State, agency company stock, or other stock or securities, or any special or advisory board or other contract of any kind, promising returns and profits, as an inducement to insurance; and on and after March 15, 1908, no insurance company shall be authorized to do business in this State which issues, or permits its agents, officers or employees to issue, in the State of South Carolina, or any other State or Territory, agency company stock, or other stock or securities, or any special or advisory board or other contract of any kind, promising returns and profits as an inducement to insurance; and no corporation or stock company, acting as agent of an insurance company, nor any of its agents, officers or employees, shall be permitted to agree, sell, offer to

sell or give, or offer to give, directly or indirectly, in any manner whatsoever, any share of stock, securities, bonds or agreement of any form or nature, promising returns and profit as an inducement to insurance or in connection therewith: *Provided*, That nothing herein contained shall impair or affect in any manner any such contracts issued or made as an inducement prior to the enactment thereof, or prevent the payment of the dividends or returns therein stipulated to be paid. It shall be the duty of the Insurance Commissioner, upon being satisfied that any such insurance company, or any agent thereof, has violated any of the provisions of this Section, to revoke the certificate of authority of the company or agent so offending; and that nothing herein contained shall apply to marine insurance companies, or agents of such companies, when such agents write only marine insurance.

Civ. C. '22, § 4110; Civ. C. '12, § 2731; 1908, XXV, 1110; 1920, XXXI, 1103.

Act 905 of 1934. Insurance Commissioner to Approve Issuance of Charters to Insurance Companies.

1. From and after the *approval of this Act it shall be unlawful for the Secretary of State to issue any charter to any insurance company of whatever kind or permit any foreign insurance company to do business within this State, without the Secretary of State first consulting with the Insurance Commissioner of the State as to the advisability of issuing said charter and receive from him his written approval.

2. **Acts Prohibited.**—That it shall be unlawful for any insurance company or for any person acting for or on its behalf, to solicit, deliver or collect any premiums of insurance for any such company, from any person within this State, when such company has surrendered or lost its charter.

3. **Liability of Insurance Company Which Lost or Surrendered Its Charter—"Insurance Company" Defined.**—That when any insurance company has lost or surrendered its charter, it shall still be subject to suit under the laws of this State and the Insurance Commissioner is hereby designated as the agent of any such company, upon whom service of any process may be had, until all outstanding claims and demands against it shall have been settled. As used herein the term "insurance com-

pany" shall include any company, corporation, association or other combination of one or more thereof incorporated and/or organized for the purpose of conducting any insurance business in this State.

*Approved April 12, 1934.

Act 631 of 1934. Every Insurer to Deliver Copy of Application With Life, Health, and Accident Insurance Policy.

1. Every firm, corporation, fraternal benefit, mutual protective, mutual insurance, mutual aid or other associations doing a life and/or health, and/or accident insurance business in the State of South Carolina shall deliver with each policy of insurance issued by it a copy of the application made by the insured so that the whole contract shall appear in said application and policy of insurance, in default of which no defense shall be allowed to such policy on account of anything contained in, or omitted from, such application. If such a policy of insurance is issued upon an oral application, no defense shall be allowed to said policy on account of anything contained in or omitted from such oral application.

2. If any clause, sentence, paragraph, or any part of this Act shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this Act, but shall be confined in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which said judgment is rendered.

Approved January 24, 1934.

(7953) Companies Not Licensed May Collect Premiums.—For the convenience of policyholders in South Carolina of any insurance company not licensed to do business in this State, and upon satisfactory assurance being given that no new business will be done by any person for such company, the Insurance Commissioner may license any person to receive and transmit premiums to such company and to adjust losses under policies of such company upon the payment of one per centum upon the net premiums collected in this State.

Civ. C. '22, § 4071; 1912, XXVII, 534.

(7965) Admission of Foreign Mutual Fire Insurance Companies to Do Business.—Any foreign mutual fire insurance com-

pany maintaining no agents, writing no business except on the property of its members and doing business without profit, may be admitted to do business in this State on the following terms: It shall file with the Insurance Commissioner a satisfactory statement of its condition and such other information as he shall require; a copy of its charter and amendments thereto; certificate of compliance with the laws of its home State, and the appointment of the Insurance Commissioner of South Carolina as its attorney to accept service. It shall pay an annual department license fee of twenty-five dollars and the additional license fee now provided by law on the actual cost of insurance.

Civ. C. '22, § 4083; Civ. C. '12; § 2706; 1910, XXVI, 775.

(7952) Corporations May Pay Sick and Death Benefits.—Any corporation doing business in this State and desiring to provide sick, accident and death benefits for its employees may be licensed so to do upon the payment to the Insurance Commissioner of insurance department license fees as follows: Those doing business in one county only, $10.00; in not more than two counties, $25.00; in more than two counties, $50.00: *Provided, further,* That purely mutual associations doing business in only one county, whose gross income does not exceed $500.00, may be licensed upon payment of an annual fee of five dollars.

Civ. C. '22, § 4070; 1912, XXVII, 534.

(7984) Insurance Payable in Merchandise or Services Prohibited—Penalty.—It shall be unlawful for any insurance company, fraternal organization, burial association, or any other association, to make payment or settlement of policies written by such companies or associations in this State, in merchandise or services rendered or agreed to be rendered, or to issue any policy, providing for settlement in merchandise or services rendered or to be rendered. Any insurance company, fraternal organization, burial association or any other association violating the provisions of this Section shall be liable to a penalty of ten times the amount of such policy, certificate or other evidence of insurance to be collected in a suit by the heirs at law of such deceased policyholder.

1929, XXXVI, 234.

(7954) Insurance Companies to Do Business Only Through Authorized Agents—Commission—When License May Be Revoked.—That it shall be unlawful for any insurance company

doing business through agents in the State of South Carolina to write, place or cause to be written, placed or renewed any fire, marine, accident, health, liability, plate glass, steam boiler, burglary, or theft, sprinkler leakage, fly wheel, automobile property damage, credit or workman's collective insurance, or fidelity and surety bond covering any risk or on property located in the State of South Carolina, except through or by duly authorized agent or agents of such insurance company or association residing and doing business in this State. The full premium shall be paid to such agents who are entitled to and shall receive the same commission on such business as the company allows them on other business of the same class. The payment of a fee or any other consideration than the full commission is held a violation of law. Agents who may sign or insurance companies who may cause to be signed any policy or indemnity contract as the resident agent of an insurance company and fails to collect the full premium for such insurance and retain the proper commission which is due such agent may have their license revoked as the penalty for aiding in an evasion of the law: *Provided, however,* That agents licensed under the insurance laws of this State may write insurance at the request of other agents or brokers and allow said agents or brokers not exceeding one-half of the commissions which they receive on the business written.

Civ. C. '22, § 4072; 1915, XXIX, 219.

LIFE INSURANCE

(7983) Valuation of Securities of Insurance Companies and Associations.—All bonds or other evidence of debt having a fixed term and rate held by any life insurance company, assessment life association or fraternal beneficiary association authorized to do business in this State may, if amply secured and not in default as to principal and interest, be valued as follows: If purchased at par, at the par value; if purchased above or below par, on the basis of the purchase price adjusted so as to bring the value to par at maturity and so as to yield in the meantime the effective rate of interest at which the purchase was made: *Provided,* That the purchase price shall in no case be taken at a higher figure than the actual market value at the time of purchase: and, *Provided, further,* That the Commissioner of Insur-

ance shall have full discretion in determining the method of calculating values according to the foregoing rule.

1922, XXXII, 1007.

(7985) Life Insurance Policy for Benefit of Married Women and Children.—A policy of insurance upon the life of any person which has already been or may hereafter be taken out in which it is expressed to be for the benefit of any married woman, or of herself and her children, or of herself and children of her husband, whether procured by herself or her husband, shall inure to the use and benefits of the person or persons for whose use and benefit it is expressed to be taken out; and the sum or net amount of the insurance becoming due and payable by the terms of the policy shall be payable to the person or persons aforesaid, free and discharged from the claims of the representatives of the husband, or of any of his creditors, or any party or parties claiming by, through or under him or them or either of them: *Provided, however,* That if the premium paid in any one year out of the property or funds of the husband shall exceed the sum of five hundred dollars, the exemption from the claims of the creditors of the husband shall not apply to so much of said premium so paid as shall be in excess of five hundred dollars, but such excess, with the interest thereon, or so much thereof as may be necessary, shall inure to the benefit of such creditors if the same be necessary for their payment.

Civ. C. '22, § 4099; Civ. C. '12, § 2721; Civ. C. '02, § 1824; G. S. 1358; R. S. 1482; 1875, XV, 865.

(7986) When Right to Dispute Truth of Application is Waived.—All life insurance companies, fraternal benefit associations or any other company, corporation or association by whatever name known, who issues a policy or certificate of insurance on the life of a person that shall receive the premium on any policy for the space of two years shall be deemed and taken to have waived any right they may have had to dispute the truth of the application for insurance, or that the assured person had made false representations, and the said application and representations shall be deemed and taken to be true.

Civ. C. '22, § 4100; Civ. C. '12, § 2722; Civ. C. '02, § 1825; G. S. 1359; R. S. 1483; 1878, XVI, 530; 1922, XXXII, 915.

(7987) Suit to Vacate Policy for False Representations—Two Year Limitation.—Life insurance companies are hereby author-

ized to institute proceedings to vacate policies on the ground of the falsity of the representations contained in the application for said policy: *Provided*, The same be commenced within two years from the date of said policy.

Civ. C. '22, § 4101; Civ. C. '12, § 2723; Civ. C. '02, § 1826; G. S. 1360; R. S. 1484; 1878, XVI, 531.

(7993) Insurance Companies or Agents Not to Circulate False Information.—No life insurance company doing business in this State, and no officer, director or agent thereof, shall issue or circulate, or cause or permit to be issued or circulated, any estimate, illustration, circular or statement of any sort misrepresenting the terms of any policy issued by it, or the benefits or advantages promised thereby, or the dividends or shares of surplus to be received thereon, or shall use any name or title of any policy or class of policies misrepresenting the true nature thereof.

Civ. C. '22, § 4107; Civ. C. '12, § 2729; 1908, XXV, 1110.

(7963) Medical Examiners of Life Insurance Companies Exempt from License Fee.—No license shall be charged any resident practicing physician in this State for making medical examination for life insurance companies or fraternal orders by the State, or any county, city or town: *Provided*, Such physician has been duly licensed to practice by the State Board of Medical Examiners.

Civ. C. '22, § 4081; 1913, XXVIII, 145.

FIRE INSURANCE

(7962) Insurance Commissioner to License Adjusters—Adjusters Agents for Insurance Companies—License Fee.—Every person (commonly called an adjuster) adjusting losses for any fire insurance company licensed to do business in this State shall be licensed by the Insurance Commissioner. Such person or persons shall apply for license on forms prescribed by the Insurance Commissioner. The Insurance Commissioner shall satisfy himself that such person applying for license as an adjuster is a person of good moral character, has sufficient knowledge of the fire insurance business and his duties as adjuster, that he has not violated any of the insurance laws of the State, and that he is a fit and proper person for such position: *Provided*, That

agents licensed under Section 7951 are not required to comply with the terms of this Section: *Provided,* That adjusters are hereby declared to be acting as the agents for the company or companies represented by them in the adjustment of any loss. The fee for an adjuster's license, as contemplated under this Section, shall be ten dollars ($10.00), said license to expire on the 31st day of March annually.

Civ. C. '22, § 4080; 1920, XXXI, 945.

(7972) All Policies to Be Issued Through Resident Agents—Exceptions.—No fire insurance company or association not incorporated under the laws of this State, authorized to transact business here, shall make, write, place, or cause to be made, written or placed, any policy, duplicate policy, or contract of insurance of any kind or character, or any general or floating policy, upon property stiuated or located in this State, except after the said risk has been approved, in writing by an agent who is a resident of this State, regularly commissioned by the company doing business in this State, who shall countersign all policies so issued, and receive the commission thereon when the premium is paid, and the State shall receive the license fees required by law to be paid on the premiums collected for insurance on all property located in this State. Nothing in this Chapter shall be construed to prevent any insurance company or association, authorized to transact business in this State, from issuing policies at its principal or department offices, covering property in this State: *Provided,* That such policies are issued upon application procured and submitted to such company by agents who are residents of this State, regularly commissioned to transact the business of insurance herein, and who shall countersign all policies so issued and receive the commission thereon when paid. No provision of this Section is intended to or shall apply to direct insurance covering the rolling stock of railroad corporations or property in transit while in the possession and custody of railroad corporations or other common carriers.

Civ. C. '22, § 4090; Civ. '12, § 2713; Civ. '02, § 1811, 1900, XXIII, 394.

(7973) Returns as to Re-insurance by Companies.—Every fire insurance company or association shall annually, and at such other times as the Insurance Commissioner may require, in addition to all returns now by law required of it or its agents or managers, make a return to the Insurance Commissioner, in

such form and detail as may be prescribed by him, of all reinsurance or cessions of risk or liability contracted for or effected by it, whether by issue of policy, entry or bordereau, or general participation agreement, or by excess loss reinsurance, or in any manner whatsoever, upon property located in this State, or covering, whether specified or otherwise, any risk or liability upon property so located, such return to be certified by the oath of its president and secretary, if a company or association of the United States, and, if a company or association of a foreign country, by the oath of its managers in the United States, as to such re-insurance or cessions affected (effected) through its branch office in the United States, and by the oath of its president and secretary, or by officers corresponding thereto, at its home office, wherever located, as to re-insurance or cessions as aforesaid contracted for or effected through the foreign office. The refusal of any such company or association to make the returns herein required shall be presumptive evidence that it is guilty of violating the provisions of Section 7972, and shall subject it to the penalties prescribed and imposed by this Chapter.

Civ. C. '22, § 4091; Civ. C. '12, § 2714; Civ. C. '02, § 1813; 1900, XXIII, 394.

(7974) Penalty for Violation of Provisions.—Any insurance company or association wilfully violating or failing to observe and comply with any of the provisions of Sections 7971, 7972 and 7973 applicable thereto, shall be subject to and liable to pay a penalty of five hundred dollars for each violation thereof; and for each failure to observe and comply with any provisions of the said Sections, such penalty may be collected and recovered in an action brought in the name of the State, in any Court having jurisdiction thereof. Any insurance company or association which shall neglect and refuse for thirty days after judgment in any such action to pay and discharge the amount of such judgment, shall have its authority to transact business in this State revoked by the Insurance Commissioner, and such revocation shall continue for at least one year from the date thereof; nor shall any insurance company or association, whose authority to transact business in this State shall have been so revoked, be again authorized or permitted to transact business herein, until it shall have paid the amount of such judgment, and shall have filed in the office of the Insurance Commissioner

a certificate, signed by its president or other chief officer, to the effect that the terms and obligations of the provisions of this Article are accepted by it as a part of the conditions of its right and authority to transact business in this State.

Civ. C. '22, § 4092; Civ. C. '12, § 2715; Civ. C. '02, § 1814; 1900, XXIII, 394; 1903, XXIV, 71.

(7976) Disposition of Fines, Etc.—All penalties and fines and forfeitures whatsoever collected under this Chapter shall be turned into the general fund for school purposes: *Provided, however,* That the provisions of this Article shall not be construed so as to prevent any policy, duplicate policy, or contract for re-insurance, from being written or placed in any fire insurance company or association which has no agent resident in this State, or prevent any mutual association or companies from issuing any policy or contract of insurance making inspections and adjustments, where the insured is paid cash dividends or return premiums: *Provided, further,* That any person, if other than the Insurance Commissioner or his deputy, upon whose complaint a conviction is had in Court of competent jurisdiction for violation of the law prohibiting insurance by unlicensed companies or for soliciting, examining, or inspecting any risk, or receiving, collecting, or transmitting any premium, or adjusting or aiding in adjusting any loss under any contract not made in accordance with the law of this State, shall be entitled to one-half of the penalty recovered thereunder.

Civ. C. '22, § 4094; Civ. C. '12, § 2717; Civ. C. '02, §1815; 1900, XXIII, 394; 1920, XXXI, 224.

(7975) Fire Insurance Company Claiming Lien Must Establish Solvency.—Any fire insurance company doing business in this State, claiming a lien upon the property insured for the premium for such insurance, shall upon an action being brought upon such lien, or to collect such premium, establish that protection had been had by the insured and that such company during the period of insurance was solvent.

Civ. C. '22, § 4093; Civ. C. '12, § 2716; 1910, XXVI, 695.

(7977) Value Stated in Policy—Total and Partial Loss—Contributive Insurance—Liability.—No fire insurance company or individuals writing fire insurance policies, doing business in this State, shall issue policies for more than the value to be stated in the policy, the amount of the value of the property

to be insured, and the amount of insurance to be fixed by insurer at or before the time of issuing said policies, and in case of total loss by fire, the insured shall be entitled to recover the full amount of insurance and a proportionate amount in case of partial loss: *Provided*, Two or more policies written upon the same property shall be deemed and held contributive insurance; and if the aggregate sum of all such insurance exceed the insurable value of the property, as agreed by the insurer and the insured, in the event of total or partial loss, each company shall be liable for its *pro rata* share of said insurance.

Civ. C. '22, § 4095; Civ. C. '12, § 2718; Civ. C. '02, § 1816; 1896, XXII, 113.

(7980) Exceptions as to Personalty.—Nothing in Sections 7977 and 7979 shall be held to apply to insurance on chattel or personal property.

Civ. C. '22, § 4098; Civ. C. '12, § 2720; Civ. C. '02, § 1818; 1896, XXII, 113.

(7435) Municipalities May Not Levy License Tax on Fire Insurance Companies or Agents Except on Percentage of Premiums Collected—Amount.—No municipality shall charge a license fee to fire insurance companies or their agents licensed by the Insurance Commissioner in any other manner than on a percentage of the premiums collected in such municipality, such license fee not to exceed two per cent. of the premiums collected in such municipality; except in cities of fifty thousand inhabitants or more, where not exceeding five per cent. may be charged.

(7978) Insurance Policies Invalidating Same If Insured Property Is Encumbered, Declared Void.—Hereafter any clause in any policy of insurance purporting or undertaking to limit or invalidate the force of such policy in case of encumbrance by real estate mortgage of the property insured by such policy, shall be, and the same is hereby, declared to be null and void.

Civ. C. '22, § 4096; 1913, XXVIII, 146.

(7979) Limits at to Time Within Which Statements in Applications May Be Disputed.—No statement in the application for insurance shall be held to prevent a recovery before a jury on said policy in case of partial or total loss: *Provided*, After the expiration of sixty days, the insurer shall be estopped to

deny the truth of the statement in the application for insurance which was accepted except for fraud in making the application for insurance.

Civ. C. '22, § 4097; Civ. C. '12, § 2719; Civ. C. '02, § 1817; 1896, XXII, 113.

(7981) Fire Insurance Companies Required to Furnish Blanks For Making Claims Within Twenty Days After Notice.—Within twenty (20) days after notice of loss every fire insurance company doing business in the State shall personally deliver or send by registered mail to the last known post office address of the insured blank proofs of loss and any other necessary documents required of the insured.

1930, XXXVI, 1310; 1931, XXXVII, 156.

(8019) Construction of Fire Insurance Contracts Providing For Fire Prevention Devices.—Nothing contained in the laws of this State relating to fire insurance shall be construed as prohibiting the performance of any contract, heretofore or hereafter made, for the introduction of automatic sprinklers or other fire prevention devices for reducing the risk by fire or water on any property located in this State, and containing provisions for obtaining or guaranteeing insurance against loss or damage by fire or water, for a specified time at a fixed rate: *Provided*, All fire insurance policies shall be in the form required by the laws of this State and written in companies licensed by the State Insurance Commissioner.

1930, XXXVI, 1321.

FIRE DEPARTMENT TAX

(8021) Foreign Fire Insurance Companies Not to Do Business Except as Herein Prescribed.—No foreign corporation carrying on a fire insurance business shall hereafter engage in, carry on or do any fire insurance business in this State save and except upon compliance with the conditions in this Article hereafter imposed, as well as all other conditions now or hereafter imposed by law.

Civ. C. '22, § 4134; Civ. C. '12, § 2740; 1910, XXXI, 776.

(8022) Statement to Be Made to Insurance Commissioner.—Every fire insurance company, corporation or association incorporated under the laws of any other State, or of any foreign

government or country now or hereafter desiring to engage in or carry on business in this State, shall return to the Insurance Commissioner a just and true account, verified by oath, that the same is a true account of all premiums received from fire insurance business done during the year ending December 31st in any incorporated city or town of this State, having or that may have, a regularly organized fire department under the control of the Mayor and Council or Intendant and Council of said city or town, and having in serviceable condition for fire duty fire apparatus and necesssary equipments belonging thereto to the value of one thousand ($1,000) dollars and upwards. Such returns must be made by said companies, corporations or associations within sixty days after the 31st day of December of each year.

Civ. C. '22, § 4135; Civ. C. '12, § 2741; 1910, XXVI, 776.

(8023) Payments to Be Made to State Treasurer.—Every fire insurance company aforesaid shall, within sixty days after the 31st day of December of each year, deliver and pay to the Insurance Commissioner the sum of $1.00 upon the $100, and at that rate upon the amount of all premiums written on fire insurance within the limits of such incorporated cities or towns during the year ending December 31st, in each preceding year, or for such portion of such period as said company, corporation or association shall have done business in this State.

Civ. C. '22, § 4136; Civ. C. '12, § 2742; 1910, XXVI, 776.

(8024) Books of Account to Be Kept.—Every such company, corporation or association shall keep accurate books of account of all business done by them on fire insurance within the limits of such incorporated cities and towns, and in case fraud or dishonesty in said returns made by such company, corporation or association, as provided for in Section 8022 be apparent, it shall be the duty of the Insurance Commissioner to investigate such returns and collect the amount he shall find to be due.

Civ. C. '22, § 4137; Civ. C. '12, § 2743; 1910, XXVI, 776.

(8025) Penalty for Failure to Keep Books.—Every foreign fire insurance company which shall neglect to keep such books of account as aforesaid, or shall fail or neglect to report or pay over any of the money on premiums aforesaid, at the times and in the manner specified in this Article, or shall be found upon

examination to have made a false return of business done by them, shall for each offense forfeit $300, to be applied to the same purposes hereinafter prescribed in Section 8028.

Civ. C. '22, §4138; Civ. C. '12, § 2744; 1910, XXVI, 776.

(8026) Insurance Commissioner May Revoke Licenses.—In case of making a default in payment or in case of failure to pay and satisfy any forfeiture adjudged to be due by the provisions of this Article, the Insurance Commissioner shall forthwith revoke the license of such company, or corporation or association to do business in this State, and after such revocation it shall be unlawful for such company, corporation or association to do business in this State: *Provided*, That the Insurance Commissioner may, upon compliance by such company, corporation or association with the requirements of this Article, permit it to do business in this State.

Civ. C. '22, § 4139; Civ. C. '12, § 2745; 1910, XXVI, 776.

(8027) State Treasurer to Turn over Proper Proportion to Cities and Towns.—The State Treasurer shall pay over the amount collected upon the premiums on business done in each city or town from the foreign insurance companies, corporations or associations doing business within the cities or towns having or that may hereafter have a regular organized fire department as aforesaid in Section 8022, to the treasurer of such city or town: *Provided*, That all money so collected from the foreign insurance companies, corporations or associations doing business within the said cities or towns, shall be set apart and used by such cities and towns solely and entirely for the objects and purposes of this Article.

Civ. C. '22, § 4140; Civ. C. '12, § 2746; 1910, XXVI, 776.

(8028) Money to Be Held in Trust.—All money collected and received under the provisions of this Article by the Treasurer of any city or town shall be under the control and shall be disbursed by the Trustees of the Firemen's Insurance and Inspection Fund, under such rules and regulations as may be adopted by them: *Provided*, That no part of said fund shall be used except for the benefit of the fire department of said city or town or the members thereof. In each city and town, complying with and deriving benefits from the provisions of this Article, there shall be appointed a local Board of Trustees, to

be known as the Trustees of the Firemen's Insurance and Inspection Fund, to be composed of three or five members, as the said respective cities or towns may hereafter determine. The said Board, if composed of three, shall consist of the Mayor, the Councilman in charge of the fire department, or the Chairman of the Fire Committee, and the Chief of the Fire Department. The said Board of Trustees, when composed of five, shall be appointed as follows: That is to say, the said Board of Trustees shall consist of the Chairman of the Board of Firemasters, or the Chairman of the Fire Committee of the said several respective cities or towns; the Chief of the Fire Department, the Treasurer of the said respective cities or towns, and two citizens, one to be appointed by the Mayor and one to be appointed by the Chief of the Fire Department, both to be confirmed by the City Council or Board of Aldermen, the term of office of the last two named members of the Board to be four (4) years, and they shall continue to serve until their successors are nominated and confirmed. All members of the said Board of Trustees shall serve without compensation, and the said Board shall elect from their number a chairman and secretary, who shall likewise serve without compensation, and the Treasurer of the city or town shall act as the treasurer of the said Board and be custodian of all funds.

For the purpose of supervision and inspection, and a guarantee that the provisions of this Article shall be administered as hereinbefore set forth, every fire department enjoying the benefits of this Article, shall be a member of the South Carolina State Firemen's Association, which Association is hereby vested with full power and authority to supervise and inspect the operation of the ordinances hereinafter provided to be passed in each of the several towns and cities enjoying the benefits of this Article. For this purpose, and to defray the expenses thereof, the said Board of Trustees of the Firemen's Insurance and Inspection Fund shall pay over to the treasurer of the South Carolina State Firemen's Association the sum of five (5) per cent. of the gross proceeds received annually by each city or town from the one (1) per cent. tax on fire insurance previously collected in said city or town, the said sum to be expended for the sole purpose of the betterment and maintenance of skillful and efficient fire departments in the said several

respective cities and towns complying with the provisions of this Article. Every city and town enjoying the benefits of this Article shall, within two (2) years from the date of the approval of the original act, pass suitable ordinances to be approved by the Insurance Commissioner of the State of South Carolina, providing a Building and Inspection Code for the proper erection and inspection of all buildings in the said respective towns or cities, so as to eliminate, as far as may be, the danger of fires arising from defective construction, or the presence and existence of inflammable and combustible material and conditions.

Civ. C. '22, § 4141; Civ. C. '12, §2747; 1910, XXVI, 776; 1914, XXVIII, 503.

CITIES TO FILE CERTIFICATES

(8029) Certificate to Be Filed by Cities Accepting Provisions of Article.—The Clerk of any incorporated city or town accepting the benefits of this Article by ordinance as required herein shall, on or before the 31st day of October of each year, make and file with the Insurance Commissioner his certificate stating the existence of such department, the number of steam, hand or other engines, hook and ladder trucks and hose carts in actual use, the number of organized companies, and the system of water supply in use for such department, together with such other facts as the Insurance Commissioner may require, on a blank to be furnished by him. If the certificate required by this Section is not filed with the Insurance Commissioner on or before October 31st in any year, the town or village so failing to file such certificate shall be deemed to have waived and relinquished its rights for such year to the appropriation provided for.

Civ. C. '22, § 4142; Civ. C. '12, § 2748; 1910, XXVI, 776.

RATE MAKING ACT

(8003) Insurance Commissioner May Inquire As to Fire Insurance Rates and Require Filing of Schedules, Etc.—The Insurance Commissioner may address inquiries to any individual association, or bureau which is or has been engaged in making rates or estimates for rates, for fire insurance upon property in this State, in relation to the organization, maintenance or oper-

ation, or any other matter connected with its transactions; and may require the filing of schedules, rates, forms, rules, regulations, and such other information as may be required; and it shall be the duty of every such individual, association, or bureau, or some officer thereof, to promptly make such filing or reply to such inquiries in writing: *Provided, however,* Surveys and completed schedules may be required only upon specific complaint being registered with the Insurance Commissioner on specified risks.

Civ. C. '22, § 4117; 1916, XXIX, 673; 1917, XXX, 353.

(8004) Commissioner May Examine Rating Bureau—Report —Waiver of Examination.—The Insurance Commissioner shall have power to examine any such rating bureau as often as he deems it expedient to do so, and shall do so not less than once every three years. A report thereof shall be filed in his office. The Insurance Commissioner may waive such examination upon the filing with him of a report of such examination made by some other Insurance Department or proper supervising officers within such three years. A statement with regard to such examination shall be made in the annual report of the Insurance Commissioner.

Civ. C. '22, § 4118; 1916, XXIX, 673; 1917, XXX, 353.

(8005) No Insurer to Fix Discriminatory Rates.—No fire insurance company or other insurer against the risks of fire or lightning, nor any rating bureau, shall fix or charge any rate for fire insurance upon property in this State which discriminates unfairly between risks in the application of like charges and credits, or which discriminates unfairly between risks of essentially the same hazards, territorial classifications, and having substantially the same degree of protection against fire: *Provided, however,* That upon the filing with the Insurance Commissioner and bureau of an affidavit setting forth the facts as to the competition he (the Insurance Commissioner) shall grant permission to any licensed or authorized company to make a rate competing with any non-licensed or unauthorized company on that specific risk.

Civ. C. '22, § 4119; Civ. C. '12, § 2738; 1904, XXIV, 472; 1916, XXIX, 673; 1917, XXX, 353.

(8006) Insurer to Inform Commissioner in Advance of Variation—Uniform Variations Permitted.—Every such company

or other insurer shall ten days in advance of any variation by it from the bureau rate file with the Insurance Commissioner and bureau the variation from the bureau rate which shall be uniform throughout the territorial classification and every company or insurer shall be permitted to make uniform variations from the bureau rate.

Civ. C. '22, § 4120; 1916, XXIX, 673; 1917, XXX, 353.

(8007) Insurer Cannot Contract For Writing of Insurance by Any Particular Company, Etc.—No insurance company or other insurer or rating bureau shall make any contract or agreement with any other person insured or to be insured that the whole or any part of any insurance shall be written or placed with any particular company, insurer, agent, or any group of companies, insurers or agents.

Civ. C. '22, § 4121; 1916, XXIX, 673; 1917, XXX, 353.

(8008) Fire Insurers May Maintain Rating Bureau.—Every fire insurance company or other insurer authorized to effect insurance against the risk of loss or damage by fire or lightning, covering property in this State, may individually or in co-operation with other companies, maintain or be members of a rating bureau.

Civ. C. '22, § 4122; 1916, XXIX, 673; 1917, XXX, 353.

(8009) Of What Rating Bureau to Consist—To Admit Any Fire Insurer to Membership—Expenses—Annual Fee.—A rating bureau may consist of one or more insurers, and when consisting of two or more insurers shall admit to membership any fire insurer authorized to do business within this State applying therefor. The expenses of the bureau shall be shared in proportion to the gross premiums received in this State by each member during the current year; to which may be added a reasonable annual fee, which shall not exceed twenty-five ($25.00) dollars.

Civ. C. '22, § 4123; 1916, XXIX, 673; 1917, XXX, 353.

(8010) Insurer in Application For License to Specify to What Bureau It Belongs.—Every fire insurance company, or other insurer aforesaid, shall in its annual application for license specify each rating bureau making rates upon property located within this State, of which it is a member; and during the year

file written notice of any other rating bureaus, of which it shall become a member.

Civ. C. '22, § 4124; 1916, XXIX, 673; 1917, XXX, 353.

(8011) Risks to Be Inspected—Written Survey to be Filed.—Every rating bureau or other insurer engaged in making rates, or estimates for rates, for fire insurance on property in this State shall inspect every risk specifically rated by it upon schedule, and make a written survey of such risk, which shall be filed as a permanent record in the office of such bureau or insurer. A copy of such survey shall be furnished to the owner or his authorized agent upon request: *Provided*, That a written survey furnished by a rating special agent shall be deemed a sufficient compliance with this section.

Civ. C. '22, § 4125; 1916, XXIX, 673; 1917, XXX, 353.

(8012) No Rate Agreements Except As Herein Provided.—No fire insurance company or any other insurer, and no rating bureau, or any representative of any fire insurance company or other insurer or rating bureau shall enter into or act upon any agreement with regard to the making, fixing or collecting of any rate for fire insurance upon property within this State, except in compliance with this Article.

Civ. C. '22, § 4126; 1916, XXIX, 673; 1917, XXX, 353.

(8013) How Agreement to Be Made.—Any such agreement may be made and enforced, provided the same be in writing, and, prior to its taking effect, a copy thereof be filed with the Insurance Commissioner and with each rating bureau of which any of the parties thereto shall be a member or subscriber.

Civ. C. '22, § 4127; 1916, XXIX, 673; 1917, XXX, 353.

(8014) Commissioner May Disapprove Agreement—Effect of Disapproval—Service—Review by Court.—The Insurance Commissioner may, after due notice and hearing, upon complaint or upon his own motion, make an order disapproving any such agreement, or any part of such agreement. No such agreement shall be in force, nor shall any rights be based thereon, after service of a copy of such order upon each of the parties to such agreement and upon each bureau with which such agreement is required to be filed. Service may be made by mail, and shall be completed upon the expiration of a reasonable time for transmission fixed in such order. The action of the Insurance Com-

missioner in making or refusing to make any such order shall be subject to summary review before a Court of competent jurisdiction of this State.

Civ. C. '22, § 4128; 1916, XXIX, 673; 1917, XXX, 353.

(8015) To What Companies Article Does Not Apply—Property Exempted.—The terms of this Act shall not apply to mutual fire insurance companies chartered under the laws of this State and operating on the assessment plan, nor to property protected in whole or in part by automatic sprinklers and insured in connection with any inspection service, nor to rolling stock of railroad corporations, or property in transit while in the possession of railroad companies or other common carriers, nor to the property of such common carriers used or employed by them in their business of carrying frieght, merchandise or passengers.

Civ. C. '22, § 4129; 1916, XXIX, 673; 1917, XXX, 353.

(8016) Commissioner May Refer Rate to Commission to Determine Whether Discriminatory—Procedure If Discriminatory —Refund of Overcharge—Procedure Where Rates Deemed Excessive.—The Insurance Commissioner, upon his own motion, or upon written complaint, shall have the power in the first instance to determine whether or not any rate fixed by any individual, bureau or insurer is discriminatory. If he shall conclude, after careful and diligent inquiry, and of full hearing and investigation, that there is discrimination, he shall order the discrimination removed and require the individual rate-maker, bureau or insurer to promulgate a rate which is not discriminatory. His ruling in this behalf may be reviewed by the Commission upon application in writing of any person or corporation aggrieved thereby. If, at any time, it shall appear to the Insurance Commissioner that rates charged for fire insurance in this State are excessive, or unreasonable, in that the results of the business of stock fire insurance companies in this State during the five years next preceding the year in which the investigation is made, as indicated by the official annual statements of the insurance companies made under oath to the Insurance Commissioner, show an aggregate underwriting profit in excess of a reasonable amount, then the said Commissioner shall have the power to order a general reduction in rates, which will reduce the underwriting profit to a reasonable amount. Any reduction

ordered by said Commissioner shall be applied to such class or classes of risks as the companies or rating bureau or bureaus may elect, and they shall not be compelled to reduce rates on classes which have not produced a reasonable underwriting profit for the five-year period. His ruling in this behalf may be reviewed by the Commission upon application in writing of any person or corporation aggrieved. In determining the question of a reasonable underwriting profit under this Section the Commission, as a protection to policyholders, shall give proper and reasonable consideration to conflagration liabilities, both within and without this State. Any action of the said Commission shall be subject to summary review before a Court of competent jurisdiction, without prejudice to either party involved.

Civ. C. '22, § 4130; 1917, XXX, 353; 1920, XXXI, 820.

(8017) Insurance Commission—How Composed—Terms—Duties—Compensation—Organization—Meetings.—The Governor shall appoint three (3) citizens of this State, to be known as the South Carolina Insurance Commission. One of the members of said commission to be recommended by the Insurance Commissioner and one to be recommended by the rating bureau having the largest membership among the companies authorized to transact business in this State at the time the appointment is made. The members first appointed shall serve for terms of one, two and three years, respectively. Their successors shall be appointed in the same manner as the original appointees and shall serve for terms of three years each, so that one member shall be appointed each year for a term of three years. They shall be required to perform the services provided in this Article, and shall be paid their actual expenses while performing the duties required under this Article, and a per diem of five ($5.00) dollars per day, for not more than twenty (20) days in any calendar year, out of the annual department license fees, upon vouchers to which itemized statements shall be attached, rendered to the Comptroller General, who shall thereupon draw his warrant upon the State Treasurer, who shall pay the same out of the annual department license fees of the Insurance Department. A chairman and a secretary shall be designated by the Governor, each of whom shall serve as such during his term as a member of the commission. The commission shall meet at the call of the chairman, but shall not

hold more than six meetings in any calendar year, except when called into extraordinary session by the Governor, who is authorized to call the commission to meet whenever in his judgment the public good demands such meeting.

Civ. C. '22, § 4131; 1916, XXIX, 673; 1917, XXX, 353.

(8018) Agreements With Agents and Companies to Confine Insurance to Members of Rating Bureau Forbidden.—No fire insurance company or other insurer and no rating bureau shall require any agent or make any agreement with such agent whereby the said agent shall not write insurance in any company not a member of any rating bureau in this State, nor shall any company or companies enter into an agreement to refuse to write insurance through any agent or agents or broker who represents any companies not members of any rating bureaus now or hereafter to be established in the State.

Civ. C. '22, § 4132; 1916, XXIX, 673; 1917, XXX, 353.

(8020) Noncompliance With Article by Insurer to Effect Suspension or Revocation of License.—Any company or insurer failing to comply with the terms of this Article shall have its license suspended or revoked by the Insurance Commissioner.

Civ. C. '22, § 4133; 1916, XXIX, 673; 1917, XXX, 353.

Editors' Note: Section 8020 appears verbatim as it was originally written in Act No. 183 of the Acts of 1917, with the exception of the word "Article" which appears in the 1932 Code where the word "Act" appeared in the Rate Making Act. The inference, therefore, is this Section applies only to the Rate Making Act (Sections 8003-8018) and not to Article I, and such construction is hereby adopted by the Insurance Commissioner.

MISCELLANEOUS INSURANCE

(5884) Surety Bonds Required of Highway Contractors to Be Written by Agents Resident in County Where Work is to Be Done.—Any contractor or contractors engaged in the building of public road or highway in any county of this State and required by the State Highway Department, road district or county to file with said department, road district or county a surety bond as guaranty of the faithful performance of the contract, shall furnish said bond through some surety company authorized to do business in this State and in the particular county in which such road or highway is being, or is to be, constructed and each such bond shall be written through and countersigned by an agent resident in the county in which such road is being, or is to be constructed: *Provided*, There is such resi-

dent agent willing to furnish said bond at the usual premium thereof: *Provided, further,* That in any case where a single project covered by a single contract extends into two or more counties, the bond herein referred to may be furnished through a resident agent in any of the counties affected.

(5885) Commission to Local Agents—Misdemeanor.—All local agents' commissions shall be paid in full to the local agent countersigning the said bond, but: *Provided, however,* That where two or more local agents in the State are engaged in the writing of said bond or bonds the said local agents' commission may be divided between those participating in the writing of said bond or bonds, but, in no event shall the local agent in the county in which the work is to be done receive less than seventy-five (75%) per cent. of the said local agents' commission. It shall be a misdemeanor for any local agent to offer to pay, and/or pay to anyone any portion of his said local agents' commission and/or for any person to receive the same, except as above provided in this section, and any one convicted therefor shall be punished by a fine of not exceeding Five Hundred ($500.00) Dollars, or by imprisonment not exceeding six months.

(5886) Penal Amount of Bonds.—The State Highway Department shall require all bonds for the construction of State highways to be in a penal amount of not less than fifteen (15%) per cent. of the contract amount for said work, whether the said bond shall be corporate, surety, cash or securities.

1930, XXXVI, 1286.

Note: Sections 5884, 5885 and 5886 are known as the Contract Surety Bond Act.

(7988) Issuance of Policies by Foreign Surety Companies.—Any foreign company empowered by its home charter to issue bonds or policies of suretyship may, by the consent and approval of the Governor, Insurance Commissioner and Secretary of State, issue said bonds in this State: *Provided,* That they comply with the law now of force in this State regulating foreign insurance companies, all of which law is now of force is hereby made applicable to companies issuing bonds or policies of suretyship.

Civ. C. '22, § 4102; Civ. C. '12, § 2724; Civ. C. '02, § 1827; 1892, XXI, 76; 1894, XXI, 757.

(7989) Recognizances, Etc., With Guarantee Companies as Surety—Approved—Conditions.—Whenever any recognizance,

stipulation, or bond, or undertaking conditioned for the faithful performance of any duty, or for doing or refraining from doing anything in such recognizance, stipulation, bond or undertaking specified, is, by the laws of the State of South Carolina, required or permitted to be given with one surety or with two or more sureties, the execution of the same or the guaranteeing of the performance of the conditions thereof shall be sufficient when executed or guaranteed solely by a corporation empowered by its charter to issue bonds or policies of suretyship, and having power to guarantee the fidelity of persons holding positions of public or private trust, and to execute and guarantee bonds and undertakings in judicial proceedings: *Provided*, That said company shall first obtain the consent and approval of the Governor, Insurance Commissioner and Secretary of State as now provided by law: *Provided, further*, That such recognizance, stipulation, bond or undertaking be approved by the head of department, Court, Judge, officer, board or body, executive, legislative or judicial, required to approve or accept the same. But no officer or person having the approval of any bond shall exact that it shall be furnished by a guaranty company or by any particular guaranty company: *Provided, further*, That said company, unless it be incorporated under the laws of the State of South Carolina, comply with the law now of force in this State regulating foreign insurance companies.

Civ. C. '22, § 4103; Civ. '12, § 2725; Civ. '02, § 1828; 1896, XXII, 28.

(7990) Company Executing Bond as Surety Estopped to Deny Corporate Power.—Any company which shall execute any bond as surety under the preceding Sections shall be estopped in any proceedings to enforce the liability which it shall have assumed to incur to deny its corporate powers to execute such instrument or assume such liability.

Civ. C. '22, § 4104; Civ. '12, § 2726; Civ. '02, § 1829; 1884, XVIII, 889.
Note: Section 7990 refers to Sections 7988 and 7989.

(7982) "Loss of Hand" in Accident Insurance Policies Defined.—In any and every accident insurance policy hereafter issued in this State the loss of a hand shall not be limited to the loss "at or above the wrist or joint" but shall include and likewise mean the loss of the four fingers entire, and every indemnity provided in such policy for the loss of a hand shall be payable likewise for the loss of four fingers entire: *Provided*, The provisions of this Section shall not apply to policies issued by

fraternal associations or by mutual benefit associations or mutual benefit, non-profit companies.

1925, XXXIV, 292.

AGENTS

(For Resident Agents' Law see Sections 7954, Page 23, 7972, Page 27, and 8102, Page 89.)

(7951) Agents to Obtain License From Commissioner.—Before doing business in this State for any insurance company, or association, each agent shall procure from the Insurance Commissioner a license, as an annual license fee, for which he shall pay the following amounts: All local agents Two ($2.00) Dollars; State, or special agents, Five ($5.00) Dollars; general agents, Ten ($10.00) Dollars.

Before issuing such license the Insurance Commissioner shall determine that the agent is a fit and proper person. Such license shall expire on March 31st each year. The Insurance Commissioner shall have power to revoke said license after thirty (30) days' notice and examination whenever it shall appear that said agent has violated the laws of this State, or has wilfully deceived or dealt unjustly with a citizen of this State: *Provided*, That agents under bond may commence work upon notice and application for license being mailed to the Insurance Commissioner. Copies of all forms of policy contracts issued by companies or associations licensed to do business in this State shall be filed with the Insurance Commissioner. *Provided, further*, That nothing herein shall apply to traveling salaried employees to whom no commission is paid.

Civ. C. '22, § 4069; Civ. C. '12, § 2704; 1910, XXVI, 774; 1930, XXXVI, 1319.

(7970) What Persons Are Deemed Agents.—A person who acts for another than himself in negotiating a contract of insurance by an insurance company or association, for the purpose of receiving remuneration therefor, shall be held to be the company's or association's agent, whatever conditions or stipulations may be contained in the policy contract.

Civ. C. '22, § 4088; Civ. C. '12, § 2711; 1910, XXVI, 554.

(7971) Who to Be Considered Agents of Foreign Insurance Companies.—Any person who solicits insurance in behalf of any insurance company not organized under or incorporated by the laws of this State, or who takes or transmits other than for

himself any application for insurance or any policy of insurance to or from such company, or who advertises or otherwise gives notice that he will receive or transmit the same, or who shall receive or deliver a policy of insurance of any such company, or who shall examine or inspect any risk, or receive, collect, or transmit any premium of insurance, or make or forward any diagram of any building or buildings, or do or perform any other act or thing in the making or the consummating of any contract of insurance for or with any such company, other than for himself, or who shall examine into and adjust, or aid in adjusting, any loss for or in behalf of any such insurance company, whether any such acts shall be done at the instance or request or by the employment of such insurance company, or not, shall be held to be acting as the agent of the company for which this act is done or the risk is taken.

Civ. C. '22, § 4089; Civ. C. '12, § 2712; Civ. C. '02, § 1810; R. S. 1481; 1883, XVIII, 460.

INSURANCE BROKERS

(7955) Insurance Broker Defined.—The term insurance broker as used in this Article, is declared to be such person as shall be licensed by the Insurance Commissioner to represent citizens of this State for the placing of insurance in insurers licensed in this State or in any other State or country.

Civ. C. '22, § 4073; 1916, XXIX, 676.

(7956) Insurance Brokers to Be Licensed After Compliance With Certain Conditions—May Solicit Insurance Throughout State—Municipalities May Impose Tax Upon Brokers—Requirements as to Residence and Length of Agency.—Insurance brokers may be licensed by the Insurance Commissioner upon the following terms and conditions, to wit: (a) The payment of an annual insurance department license fee of twenty-five ($25.00) dollars; (b) the filing of a bond approved by the Insurance Commissioner in the sum of five thousand ($5,000.00) dollars for the faithful discharge of his duties; (c) the payment of an additional license fee of 4 per cent. upon the premiums paid or written in the policies of companies not licensed in this State. Such license shall entitle the holder to solicit insurance in any county of this State, but nothing herein shall prevent municipalities from imposing license fees in accordance with their ordinances. Under the terms of this Article only such persons may be li-

censed as are residents of this State and have been licensed insurance agents of this State for at least two years.

Civ. C. '22, § 4074; 1916, XXIX, 676.

(7957) Broker to Secure Certificate of Safety and Solvency of Insurance—To Furnish Insured with Statement of Condition of Insurer If Desired—Shall Report to Insurance Commissioner—Books to Be Open for Inspection.—Such insurance broker shall exercise due care in the placing of insurance and shall procure from the supervising official in the State or county in which the home office of the insurer is located a certificate to the effect that the insurer is safe and solvent and is authorized to do business. He shall furnish the insured a statement showing the financial condition of the insurer and such other information as the insured may require. He shall report to the Insurance Commissioner in detail the amount of insurance placed and the premiums paid therefor, and shall pay to the Insurance Commissioner the additional license fee herein provided. He shall submit to the Insurance Commissioner within thirty days after December 31st of each year an annual report of his transactions, and his books, papers and accounts shall at all times be open to the inspection of the Insurance Commissioner or a deputy appointed by him.

Civ. C. '22, § 4075; 1916, XXIX, 676.

(7958) May Divide Commissions.—Such insurance broker may divide commissions with agents or brokers in other States or counties or with any agent licensed in this State for any company doing the particular class of insurance desired to be placed through such broker.

Civ. C. '22, § 4076; 1916, XXIX, 676.

(7959) Losses May Be Adjusted and Policies May Be Endorsed by Any Licensed Agent or Adjuster.—All losses occuring under policies placed through such insurance broker may be adjusted by any licensed agent or adjuster in this State, and all inspections of property and endorsements on policies may be made by a broker licensed under the terms of this Article or any other licensed fire insurance agent in this State authorized so to do.

Civ. C. '22, § 4077; 1916, XXIX, 676.

(7960) Broker's License Fees to be Paid into State Treasury—Insurance Commissioner to Account to Comptroller Gener-

al—Counties, Cities and Firemen's Insurance and Inspection Fund to Receive Part of License Fee.—The Insurance Commissioner shall pay over to the State Treasurer all license fees collected from brokers under the terms of this Article in accordance with the law now regulating like collections. Semi-annually, as soon after June 30th and December 31st of each year as may be convenient, he shall render an accounting to the State Treasurer of the additional license fees collected under the terms of this Article, showing the counties and towns in which the property covered by such insurance is located, and shall furnish a duplicate of the same to the Comptroller General in such manner as shall permit the Comptroller General, who is hereby authorized and directed so to do, to draw his warrant on the State Treasurer for one-fourth of said additional license fee payable to the County Treasurer of the county in which the property is located, which amount shall be for general county purposes. He shall likewise draw his warrant on the State Treasurer for one-fourth of said additional license fee payable to the treasurer of the municipality in which the property is located, and he shall likewise draw his warrant for one-fourth of the additional license fee payable to the trustees of the firemen's insurance and inspection fund of the municipality in which the property is located.

Civ. C. '22, § 4078; 1916, XXIX, 676.

(7961) **When Licenses Expire.**—All licenses of brokers issued under the provisions of this Article shall expire March 31st of each year, and the license fees may be prorated quarterly after October 1st of each year.

Civ. C. '22, § 4079; 1916, XXIX, 676.

FRATERNAL ORDERS

(8030) **Fraternal Benefit Associations Defined.**—Any corporation, society, order or voluntary association without a capital stock, organized and carried on solely for the mutual benefit of its members and their beneficiaries, and not for profit, by a lodge system with ritualistic form of work and a representative form of government, and which may make provision for the payment of benefits, in acordance with Section 8034, is hereby declared to be a fraternal benefit association.

Civ. C. '22, § 4143; Civ. C. '12, § 2749; 1910, XXVI, 554.

(8031) What Organizations Deemed Operating Under Lodge System.—Any association having a supreme governing or legislative body, and subordinate lodges or branches, by whatever name known, into which members of one race only shall be elected and initiated in accordance with its constitution, rules, regulations and prescribed ritualistic ceremonies, which supreme or governing body shall meet at least every fourth year, and the subordinate lodges or branches shall be required by the laws of such association to hold regular or stated meetings at least once each month, shall be deemed to be operating on the lodge system. Any such association shall be deemed to have a representative form of government when it shall require in its constitution and laws that there be a supreme legislative or governing body composed of representatives elected either by the members or delegates elected directly or indirectly by the members, together with such members as may be prescribed by its constitution and laws: *Provided,* That the elective members shall constitute a majority in number, and have not less than a majority of the votes nor less than the votes required to amend its constitution and laws: *Provided, further,* That provision shall be made for the election of at least one representative to the supreme governing body from the membership in this State.

Civ. C. '22, § 4144; Civ. C. '12, § 2750; 1910, XXVI, 554.

(8032) Mode of Incorporation.—Seven or more persons, citizens of the United States, and a majority of whom are citizens of this State, who desire to form a fraternal benefit association as defined by this Article, may make and sign (giving their address), and acknowledge before some officer competent to take acknowledgment of deeds, articles of incorporation, in which shall be stated: (1) The proposed corporate name of the association, which shall not so closely resemble the name of any association or insurance company already transacting business in this State as to mislead the public or to lead to confusion. (2) The purpose for which it is formed, which shall not include more liberal powers than are granted by this Article: *Provided,* That any lawful social, intellectual, educational, charitable, benevolent, moral or religious advantages may be set forth among the purposes of the society, and the mode in which its corporate powers are to be exercised. (3) The names, residences and official titles of all the officers, trustees, directors or other persons who are to have and exercise the general control and man-

agement of the affairs and funds of the association for the first year or until the ensuing election, at which all such officers shall be elected by the supreme legislative or governing body, which election shall be held not later than one year from the date of the issuance of the permanent certificate. Such articles of incorporation and duly certified copies of the constitution and laws, rules and regulations, and copies of all proposed forms of benefit certificates, applications therefor and circulars to be issued by such association, and a bond in the sum of five thousand dollars, with sureties approved by the Insurance Commissioner, conditioned upon the return of the advance payments, as provided in this Section, to applicants, if the organization is not completed within one year, shall be filed with the Insurance Commissioner, who may require such further information as he deems necessary, and if the purposes of the association conform to the requirements of this Article, and all provisions of law have been complied with, the Insurance Commissioner shall so certify and retain and record (or file) the articles of incorporation, and furnish the incorporators a preliminary certificate authorizing said association to solicit members as hereinafter provided. Upon receipt of said certificate from the Insurance Commissioner said association may solicit members for the purpose of completing its organization and shall collect from each applicant the amount of not less than one regular monthly payment, in accordance with its table of rates as provided by its constitution and laws, and shall issue to each such applicant a receipt for the amount so collected. But no such association shall incur any liability other than for such advanced payments, nor issue any benefit certificate, nor pay or allow, or offer or promise to pay or allow, to any person any death or disability benefit until actual *bona fide* applications for death benefit certificates have been secured upon at least five hundred lives for at least one thousand dollars each, and all such applicants for death benefits shall have been regularly examined by legally qualified practicing physicians, and certificates of such examinations have been duly filed and approved by the chief medical examiner of such association; nor until there shall be established ten subordinate lodges or branches into which said five hundred applicants have been initiated; nor until there has been submitted to the Insurance Commissioner, under oath of the president and secretary, or corresponding officers of such association, a list of such applicants, giving their

names, addresses, date examined, date approved, date initiated, name and number of the subordinate branch of which each applicant is a member, amount of benefits to be granted, rate of stated periodical contributions, which shall be sufficient to provide for meeting the mortuary obligation contracted when valued for death benefits upon the basis of the National Fraternal Congress Table of Mortality, as adopted by the National Fraternal Congress August 23, 1899, or any higher standard at the option of the association, and for disability benefits by tables based upon reliable experience and for combined death and permanent total disability benefits by tables based upon reliable experience, with an interest assumption not higher than four per cent. per annum; nor until it shall be shown to the Insurance Commissioner by the sworn statement of the treasurer or corresponding officer of such society that at least five hundred applicants have each paid in cash at least one regular monthly payment as herein provided per one thousand dollars of indemnity to be effected, which payments in the aggregate shall amount to at least twenty-five hundred dollars; all of which shall be credited to the mortuary or disability fund on account of such applicants, and no part of which may be used for expenses. Said advanced payments shall, during the period of organization, be held in trust, and, if the organization is not completed within one year as hereinafter provided, returned to said applicants. The Insurance Commissioner may make such examination and require such further information as he deems advisable, and upon presentation of satisfactory evidence that the association has complied with all the provisions of law, he shall issue to each association a certificate to that effect. Such certificate shall be *prima facie* evidence of the existence of such association at the date of such certificate. The Insurance Commissioner shall cause a record of such certificate to be made and a certified copy of such record may be given in evidence with like effect as the original certificate. No preliminary certificate granted under the provisions of this Section shall be valid after one year from its date, or after such further period, not exceeding one year, as may be authorized by the Insurance Commissioner, upon cause shown; unless the five hunrded applicants herein required have been secured and the organization has been completed as herein provided; and the article of incorporation and all proceedings thereunder shall become null and void in one year from the

date of said preliminary certificate, or at the expiration of said extended period, unless such society shall have completed its organization and commercial business as herein provided. When any domestic association shall have discontinued business for the period of one year, or has less than four hundred members, its charter shall become null and void. Every such association shall have the power to make a constitution and by-laws for the government of the association, the admission of its members, the management of its affairs and the fixing and readjusting of the rates of contribution of its members from time to time; and it shall have the power to change, alter, add to or amend such constitution and by-laws and shall have such other powers as are necessary and incidental to carrying into effect the objects and purposes of the association.

Civ. C. '22, § 4145; Civ. C. '12, § 2758; 1910, XXVI, 554; 1919, XXXI, 171.

(8033) Existing Associations.—Any association now engaged in transacting business in this State may exercise, after the passage of this Article, all of the rights conferred thereby, and all of the rights, powers and privileges now exercised or possessed by it under its charter or articles of incorporation not inconsistent with this Article, if incorporated; or, if it be a voluntary association, it may incorporate hereunder. But no association already organized shall be required to reincorporate thereunder, and any such society may amend its articles of incorporation from time to time in the manner provided therein or in its constitution and laws, and all such amendments shall be filed with the Insurance Commissioner and shall become operative upon such filing, unless a later time be provided in such amendments or in its articles of incorporation, constitution or laws.

Civ. C. '22, § 4146; 1919, XXXI, 171.

(8034) Powers of Such Associations.—Every association transacting business under this Article may provide for the payment of natural or accidental death benefits, and may provide for the payment of benefits in case of temporary or permanent physical disability, either as the result of disease or accident. Such association shall have the power to grant surrender values, not to exceed the net value of the certificates, less any surrender charges specified by the laws of the association, and may provide for the placing of and payment for monuments to the mem-

ory of its deceased members. And each such association shall keep a separate fund for expenses, and no part of any other fund shall be used for expenses or in collecting, disbursing or investing the reserve or disability funds, but all such expenses shall be paid out of the expense fund of such association.

Civ. C. '22, § 4147; Civ. C. '12, § 2751; 1910, XXVI, 554.

(8035) Benefits Payable by Fraternal Benefit Associations—Premium Loans—Paid-Up Insurance.—Every association transacting business under this Article shall provide for the payment of death benefits, and may provide for the payment of benefits in case of temporary or permanent physical disability, either as the result of disease, accident or old age: *Provided,* The period of life at which the payment of benefits for disability on account of old age shall commence shall not be under seventy years, and may provide for monuments or tombstones to the memory of its deceased members, and for the payment of funeral benefits. Such association shall have the power to give a member, when permanently disabled or on attaining the age of seventy, all or such portion of the face value of his certificate as the laws of the association may provide: *Provided,* That nothing in this Article contained shall be so construed as to prevent the issuing of benefit certificates for the term of years less than the whole of life which are payable upon the death or disability of the member occuring within the term for which the benefit certificate may be issued. Such association shall, upon written application of the member, have the power to accept a part of the periodical contributions in cash, and charge the remainder, not exceeding one-half of the periodical contribution, against the certificate with interest payable or compounded annually at a rate not lower than four per cent. per annum: *Provided,* That this privilege shall not be granted except to associations which have readjusted or may hereafter readjust their rates of contributions to an adequate basis, based on a standard mortuary table, and to contracts affected by such readjustments. Any association which shall show by the annual valuation hereinafter provided for that it is accumulating and maintaining the reserve not lower than the usual reserve computed by the American Experience Table and four per cent. interest may grant to its members on extended and paid-up protection, or such withdrawal equities as its constitution and laws may pro-

vide: *Provided*, That such grants shall in no case exceed in value the portion of the reserve to the credit of such members to whom they are made.

Civ. C. '22, § 4148; 1919, XXXI, 171.

(8036) Separation of Funds—Basis of Valuation.—Any association may create, maintain, invest, disburse and apply an emergency, surplus or other similar fund in accordance with its laws. Unless otherwise provided in the contract, such funds shall be held, invested and disbursed for the use and benefit of the association, and no member or beneficiary shall have or acquire individual rights therein or become entitled to any apportionment or the surrender of any part thereof except as provided in Section 8035. The funds from which benefits shall be paid and the funds from which the expenses of the association shall be defrayed shall be derived from periodical or other payments by the members of the society and accretions of said funds: *Provided*, That no association shall hereafter be incorporated which does not provide for stated periodical contributions sufficient to provide for meeting the mortuary obligations contracted, when valued upon the basis of the National Fraternal Congress Table of Mortality as abopted by the National Fraternal Congress August 23, 1899, or any higher standard with interest assumption not more than four per cent. per annum, nor shall any such association be admitted to transact business in this State which does not provide for stated periodical contributions sufficient to provide for meeting the mortuary obligations contracted when valued upon one of the bases named in Section 8060 and applicable thereunder to such association. No association, domestic or foreign, shall hereafter be incorporated or admitted to write or accept members for permanent disability benefits except upon tables based upon reliable experience with an interest assumption not higher than four per cent.

Civ. C. '22, § 4149; 1919, XXXI, 171.

(8037) Reserve to Meet Liabilities.—Deferred payments or installments of claims shall be considered as fixed liabilities on the happening of the contingency upon which such payments or installments are thereafter to be paid. Such liability shall be the present value of such future payments or installments upon the rate of interest and mortality assumed by the associa-

tion for valuation, and every association shall maintain a fund sufficient to meet such liability regardless of proposed future collections to meet any such liabilities.

Civ. C. '22, § 4150; 1919, XXXI, 171.

(8038) To Whom Death Benefits May Be Paid.—The payment of death benefits shall be confined to wife, husband, relative by blood to the fourth degree, ascending or descending, stepfather, stepmother, stepchildren, children by legal adoption, or to a person or persons dependent upon the member: *Provided*, That if, after the issuance of the original certificate the member shall become dependent upon the charity of an individual or of an institution, he shall have the privilege, with the consent of the association, to make such individual or institution his beneficiary. Within the above restrictions each member shall have the right to designate his beneficiary, and from time to time have the same changed in accordance with the laws, rules or regulations of the association, and no beneficiary shall have or obtain any vested interest in the said benefit until the same has become due and payable upon the death of said member: *Provided*, That any association may, by its laws, limit the scope of beneficiaries within the above classes.

Civ. C. '22, § 4151; Civ. C. '12, § 2752; 1910, XXVI, 554.

(8039) Fraternal Benefit Societies May Insure Children Dependent on Members.—Any fraternal benefit society authorized to do business in this State and operating on the lodge plan may provide in its constitution and by-laws, in addition to other benefits provided for therein, for the payment of death or annuity benefits upon the lives of children between the ages of two and eighteen years at next birthday for whose support and maintenance a member of such society is responsible. Any such society may at its option organize and operate branches for such children, and membership in local lodges and initiation therein shall not be required of such children, nor shall they have any voice in the management of the society. The total benefits payable as above provided shall in no case exceed the following amounts at ages at next birthday at time of death, respectively, as follows: Two, thirty-four dollars; three, forty dollars; four, forty-eight dollars; five, fifty-eight dollars; six, one hundred and forty dollars; seven, one hundred and sixty-eight dollars; eight, two hundred dollars; nine, two hundred and

forty dollars; ten, three hundred dollars; eleven, three hundred and eighty dollars; twelve, four hundred and sixty dollars; thirteen to fifteen, five hundred and twenty dollars, and sixteen to eighteen years, where not otherwise authorized by law, six hundred dollars.

Civ. C. '22, § 4152; 1919, XXXI, 124.

(8040) Conditions of Insurance.—No benefit certificate as to any child shall take effect until after medical examination or inspection by a licensed medical practitioner in accordance with the laws of the society, nor shall any such benefit certificate be issued unless the society shall simultaneously put in force at least five hundred such certificates, on each of which at least one assessment has been paid, nor where the number of lives represented by such certificate falls below five hundred. The death benefit contributions to be made upon such certificate, shall be based upon the "Standard Industrial Mortality Table" or the "English Life Table Number Six," at a rate of interest not greater than four per cent. per annum, or upon a higher standard: *Provided,* That contributions may be waived or returns may be made from any surplus held in excess of reserve and other liabilities, as provided in the by-laws: *And provided, further,* That extra contributions shall be made if the reserves hereafter provided for become impaired.

Civ. C. '22, § 4153; 1919, XXXI, 124.

(8041) Reserve.—Any society entering into such insurance agreement shall maintain on all such contracts the reserve required by the standard of mortality and interest adopted by the society for computing contributions, as provided in Section 8040, and the funds representing the benefit contributions and all accretions thereon shall be kept as separate and distinct funds, independent of the other funds of the society, and shall not be liable for nor used for the payment of the debts and obligations of the society other than the benefits herein authorized: *Provided,* That a society may provide that when a child reaches the minimum age for initiation into membership in such society any benefit certificate issued hereunder may be surrendered for cancellation and exchanged for any other form of certificate issued by the society: *Provided,* That such surrender will not reduce the number of lives insured in the branch below five hundred, and upon the issuance of such new certificate any reserve

upon the original certificate herein provided for shall be transferred to the credit of the new certificate. Neither the person who originally made application for benefits on account of such child nor the beneficiary named in such original certificate, nor the person who paid the contributions, shall have any vested right in such new certificate, the free nomination of a beneficiary under the new certificate being left to the child so admitted to benefit membership.

Civ. C. '22, § 4154; 1919, XXXI, 124.

(8042) Separation of Assets.—An entirely separate financial statement of business transactions and of assets and liabilities arising therefrom shall be made in its annual report to the Insurance Commissioner by any society availing itself of the provisions hereof. The separation of assets, funds and liabilities required hereby shall not be terminated, rescinded or modified, nor shall the funds be diverted for any use other than as specified in Section 8041, as long as any certificates issued hereunder remain in force, and this requirement shall be recognized and enforced in any liquidation, reinsurance, merger or other change in the condition of the status of the society.

Civ. C. '22, § 4155; 1919, XXXI, 124.

(8043) Payments for Expense Fund.—Any society shall have the right to provide in its laws and the certificate issued hereunder for specified payments on account of the expense or general fund, which payments shall or shall not be mingled with the general fund of the society as its constitution and by-laws may provide.

Civ. C. '22, § 4156; 1919, XXXI, 124.

(8044) Continuance of Insurance of Child.—In the event of the termination of membership in the society by the person responsible for the support of any child on whose account a certificate may have been issued, as provided herein, the certificate may be continued for the benefit of the estate of the child, provided the contributions are continued, or for the benefit of any other person responsible for the support and maintenance of such child who shall assume the payment of the required contributions.

Civ. C. '22, § 4157; 1919, XXXI, 124.

(8045) Who May Be Admitted to Membership—Medical Examinations.—An association may admit to beneficial membership any person not less than sixteen nor more than sixty years of age, who has been examined by a competent physician, and whose examination has been supervised and approved as provided by the laws of the association: *Provided,* That when a death benefit is less than one hundred dollars a medical inspection only may be required: *And provided, further,* That any association which does not promise natural death benefits shall not be required to make any such examination, and any beneficiary member of such association who shall apply for a certificate providing for disability benefits, need not be required to pass an additional medical examination therefor. Nothing herein contained shall prevent such association from accepting general or social members.

Civ. C. '22, § 4158; Civ. C. '12, § 2753; 1910, XXVI, 554.

(8046) What Shall Be Specified in Certificates.—Every certificate issued by any such association shall specify the maximum amount of benefit provided thereby, and shall provide that the certificate, the charter or articles of the association, the constitution and laws of the association and the application for membership and medical examination, signed by the applicant, shall constitute the agreement between the association and the member: *Provided,* That any changes, additions or amendments to said charter or articles of association, the constitution and laws, duly made or enacted subsequent to the issuance of the benefit certificate shall bind the member and his beneficiaries and shall govern and control the contract in all respects the same as though such changes, additions or amendments had been made prior thereto and were in force at the time of the application for membership.

Civ. C. '22, § 4159; Civ. C. '12, § 2754; 1910, XXVI, 554.

(8047) Subordinate Bodies to Have No Power to Waive Provisions of Laws of Association.—No subordinate body or any of its officers or members shall have the power or authority to waive any of the provisions of the laws and constitution of the association, and the same shall be binding upon the association, and each and every member thereof and their beneficiaries.

Civ. C. '22, § 4160; Civ. C. '12, § 2755; 1910, XXVI, 554.

(8048) Investment of Funds.—Any domestic association may invest its funds in accordance with the statutes regulating investments of life insurance companies.

Civ. C. '22, § 4161; Civ. C. '12, § 2756; 1910, XXVI, 554.

(8049) Division of Payments.—Every provision for payment by members of such an association, in whatever form made, shall distinctly state the purpose of the same, and the proportion thereof which may be used for expenses, and no part of the money collected for mortuary or disability purposes, and no part of the reserve, emergency or surplus funds or the net accretion of either or of any of said funds shall be used for expenses.

Civ. C. '22, § 4162; Civ. C. '12, § 2757; 1910, XXVI, 554.

(8050) Merger, Etc., of Fraternal Benefit Societies.—No fraternal benefit society organized under the laws of this State to do business of life, accident or health insurance shall consolidate or merge with any other fraternal benefit society, or reinsure its insurance risks, or any part thereof, with any other fraternal benefit society, or assume or reinsure the whole or any portion of the risks of any other fraternal benefit society, except as herein provided. No fraternal benefit society or subordinate body thereof shall merge, consolidate with or be reinsured by any company or association not licensed to transact business as a fraternal beneficiary society.

Civ. C. '22, § 4163; Civ. C. '12, § 2759; 1910, XXVI, 554; 1919, XXXI, 93, 176.

(8051) Proposed Contract for Merger, Etc., to Be Submitted to Insurance Commissioner.—When any such fraternal benefit society shall propose to consolidate or merge its business or to enter into any contract of reinsurance, or to assume or reinsure the whole or any portion of the risks of any other fraternal benefit society, the proposed contract, in writing, setting forth the terms and conditions of such proposed consolidation, merger or reinsurance shall be submitted to the legislative or governing bodies of each of said parties to said contract after due notice, and if approved, such contract, as so approved, shall be submitted to the Commissioner of Insurance of this State for his approval, and the parties to said contract shall at the same time submit a sworn statement showing the financial condition of each of such fraternal benefit societies as of the 31st day of

December preceding the date of such contract, provided that such Insurance Commissioner may within his discretion require such financial statement to be submitted as of the last day of the month preceding the date of such contract. The Commissioner of Insurance shall thereupon consider such contract of consolidation, merger or reinsurance, and if satisfied that the interests of the certificate holders of such fraternal societies are properly protected, and that such contract is just and equitable to the members of each of such societies, and that no reasonable objection exists thereto, shall approve said contract as submitted. In case the parties corporate to such contract shall have been incorporated in separate States or Territories, such contract shall be submitted as herein provided to the Commissioner of Insurance of each of such incorporating States or Territories, to be considered and approved separately by each of such Commissioners of Insurance. When said contract or consolidation, merger or reinsurance shall have been approved as hereinabove provided, such Commissioner or Commissioners of Insurance shall issue a certificate to that effect, and thereupon the said contract of consolidation, merger or reinsurance shall be in full force and effect. In case such contract is not approved, the fact of its submission and its contents shall not be disclosed by the Commissioner of Insurance.

Civ. C. '22, § 4164; 1919, XXXI, 83.

(8052) Expenses of Merger, Etc.—All necessary and actual expenses and compensation incident to the proceedings provided hereby shall be paid as provided by such contract of consolidation, merger or reinsurance: *Provided, however*, That no brokerage or commission shall be included in such expenses and compensation or shall be paid to any person by either of the parties to any such contract in connection with the negotiation therefor or execution thereof, nor shall any compensation be paid to an officer or employee of either of the parties to such contract for directly or indirectly aiding in effecting such contract or consolidation, merger or reinsurance. An itemized statement of all such expenses shall be filed with the Insurance Commissioner or Commissioners, as the case may be, subject to approval, and when approved the same shall be binding on the parties thereto. Except as fully expressed in the contract of consolidation, merger or reinsurance, or itemized statement of

expenses, as approved by the Commissioner or Commissioners of Insurance, as the case may be, no compensation shall be paid to any person or persons, and no officer or employee of the State shall receive any compensation, directly or indirectly, for in any manner aiding, promoting or assisting any such consolidation, merger or reinsurance.

Civ. C. '22, § 4165; 1919, XXXI, 83.

(8053) Penalty.—Any person violating the provisions of Sections 8050 to 8052, or either, shall be guilty of a felony, and, upon conviction, shall be liable to a fine of not more than five thousand dollars or to imprisonment for not more than five years, or to both fine and imprisonment.

Civ. C. '22, § 4166; Civ. C. '22, § 904; 1919, XXXI, 83.

(8054) Renewal of License.—Associations which are now authorized to transact business in this State may continue such business until the first day of April, 1919, and the authority of such association may thereafter be renewed annually, but in all cases to terminate on the first day of the succeeding April: *Provided, however,* That license shall continue in full force and effect until the new license be issued or specifically refused. For each such license or renewal the association shall pay the Insurance Commissioner twenty-five dollars. A duly certified copy or duplicate of such license shall be *prima facie* evidence that the license is a fraternal benefit association within the meaning of this Article.

Civ. C. '22, § 4167; 1919, XXXI, 171.

(8055) Foreign Associations to Be Licensed—Requirements For Admission—Insurance Commissioner's Decision Reviewable.—No foreign association shall transact any business in this State without a license from the Insurance Commissioner. On seeking admission to do business in this State, such association shall file with the Insurance Commissioner a duly certified copy of its charter or article of incorporation; a copy of its constitution and laws, certified by its secretary or corresponding officer; a power of attorney to the said Insurance Commissioner as hereinafter provided; a statement under oath by its president and secretary or corresponding officers in the form herein prescribed, of its business for the preceding year; a certificate from the proper official in its home State, territory, district, province or country, that the association is legally organized, and that

it is authorized to transact business therein; a copy of its application form, certificate of membership and of all circulars in use by it; and that it has the further qualifications required of domestic associations organized under this Article, and has its assets invested as required by the laws of the State, territory, district, province or country where it is organized, and such other information as the Insurance Commissioner shall require. Each association shall pay to the said Insurance Commissioner an annual department license fee of twenty-five dollars. When the said Commissioner shall refuse to license any association, or revoke its license to do business in this State, he shall reduce his ruling, order or decision to writing and file the same in his office, and shall furnish a copy thereof, together with a statement of his reasons, to the officers of the association, and the action of the said Commissioner shall be reviewable by proper proceedings in any court of competent jurisdiction within this State: *Provided, however,* That nothing contained in this or the preceding Section shall be taken or construed as preventing any such association from continuing in good faith all contracts made in this State during the time such association was legally authorized to transact business therein. No association not now licensed to do business in this State shall be admitted hereafter to do business in this State unless its methods and plans are in accord with the standards recognized as applying to fraternal associations, and the Insurance Commissioner shall be satisfied that reasonable provision has been made to fulfill its contracts; or that he is satisfied otherwise that such association should be granted a license.

Civ. C. '22, § 4168; Civ. C. '12, § 2760; 1910, XXVI, 554.

(8056) Associations Shall Appoint Insurance Commissioner Attorney for Purpose of Process.—Every association, whether domestic or foreign, hereafter applying for admission, shall, before being licensed, appoint in writing the Insurance Commissioner and his successors in office to be its true and lawful attorney upon whom all legal process in any action or proceeding against it shall be served, and in such writing shall agree that any lawful process against it which is served upon such attorney shall be of the same legal force and validity as if served upon the association, and that the authority shall continue in force so long as any liability remains outstanding in this State. Copies of such appointment, certified by the Insurance Commis-

sioner, shall be deemed sufficient evidence thereof, and shall be admitted in evidence with the same force and effect as the original thereof might be admitted. Service shall only be made upon such attorney, must be made in duplicate and shall be deemed sufficient service upon such association. When legal process against any such association is served upon said Insurance Commissioner, he shall forthwith forward by registered mail one of the duplicate copies prepaid and directed to its secretary or corresponding officer at the head office of the association.

Civ. C. '22, § 4169; Civ. C. '12, § 2761; 1910, XXVI, 554.

(8057) Meetings.—Any domestic association may provide that the meetings of its legislative or governing body may be held in any State, district, province or territory wherein such association has subordinate branches, and all business transacted at such meetings shall be as valid in all respects as if such meetings were held in this State; but its principal office shall be located in this State.

Civ. C. '22, § 4170; 1919, XXXI, 171.

(8058) Benefits in Associations Not to Be Subject to Attachment Etc.—No money or other benefit, charity or relief or aid to be paid, provided or rendered by any such association, shall be liable to attachment, garnishment or other process, or be seized, taken, appropriated or applied by any legal or equitable process or operation of law to pay any debt or liability of a member or beneficiary, or of any person who may have a right thereunder, either before or after payment.

Civ. C. '22, § 4171; Civ. C. '12, § 2762; 1910, XXVI, 554.

(8059) Amendments to Constitutions to Be Filed.—Every association transacting business under this Article shall file with the Insurance Commissioner a duly certified copy of all amendments of or additions to its constitution and laws within ninety days after the enactment of the same. Printed copies of the constitution and laws and of additions or amendments thereto, certified by the secretary or corresponding officer of the association, shall be *prima facie* evidence of the legal adoption thereof.

Civ. C. '22, § 4172; Civ. C. '12, § 2763; 1910, XXVI, 554.

(8060) Reports—Valuations.—Every society transacting business in this State shall annually, on or before the first day of March, file with the Insurance Commissioner, in such form as

he may require, a statement, under oath of its president and secretary or corresponding officers, of its condition and standing on the thirty-first day of December next preceding, and of its transactions for the year ending on that date, and also shall furnish such other information as the Insurance Commissioner may deem necessary to a proper exhibit of its business and plan of workings. The Insurance Commissioner may at other times require any further statement he may deem necessary to be made relating to such society. In addition to the annual report herein required, each association shall annually report to the Insurance Commissioner a valuation of its certificates in force on December 31, last preceding, excluding those issued within the year for which the report is filed, in cases where the contributions for the first year in whole or in part are used for current mortality and expenses. Such report of valuation shall show, as contingent liabilities, the present mid-year value of the promised benefits provided in the constitution and laws of such association under certificates then subject to valuation; and, as contingent assets, the present mid-year value of the future net contributions provided in the constitution and laws as the same are in practice actually collected. At the option of any association, in lieu of the above, the valuation may show the net value of the certificates subject to valuation hereinbefore provided, and said net value, when computed in case of monthly contributions, may be the mean of the terminal values for the end of the preceding and of the current insurance years. Such valuation shall be certified by a competent accountant or actuary, or, at the request and the expenses of the association, verified by the actuary of the department of insurance of the home State of the association, and shall be filed with the Insurance Commissioner within ninety days after the submission of the last preceding annual report. The legal minimum standard valuation for all certificates for disability benefits shall be the National Fraternal Congress Table of Mortality as adopted by the National Fraternal Congress August 23, 1899, or, at the option of the association, in a higher table; or, at its option, it may use a table based upon the association's own experience of at least twenty years and covering not less than one hundred thousand lives with interest assumption not more than four per centum per annum. Each such valuation report shall set forth clearly and fully the mortality and interest basis and the method of valuation. Any association providing for disability benefits

shall keep the net contributions for such benefits in a fund separate and apart from all other benefit and expense funds and the valuation of all other business of the association: *Provided*, That where a combined contribution table is used by an association for both death and permanent total disability benefits the valuation shall be according to tables of reliable experience, and in such case a separation of the funds shall not be required. The valuation herein provided for shall not be considered or regarded as a test of the financial solvency of the association, but each association shall be held to be legally solvent so long as the funds in its possession are equal to or in excess of its matured liabilities. A report of such valuation and explanation of the fact concerning the condition of the association thereby disclosed shall be printed and mailed to each beneficiary member of the association not later than June 1 of each year; or, in lieu thereof, such report of valuation and showing of the association's condition as thereby disclosed may be published in the association's official paper and the issue containing the same mailed to each beneficiary member of the association. The laws of such association shall provide that if the stated periodical contributions of the members are insufficient to pay all matured death and disability claims in full, and to provide for the creation and maintenance of the funds required by its laws, additional, increased or extra rates of contribution shall be collected from the members to meet such deficiency; and such laws may provide that, upon the written application or consent of the member, his certificate may be charged with its proportion of any deficiency disclosed by valuation, with interest not exceeding five per centum per annum. If the valuation of the certificates, as hereinbefore provided, on December 31, 1918, shall show that the present value of future net contributions, together with the admitted assets, is less than the present value of the promised benefits and accrued liabilities, such association shall thereafter maintain said financial condition at each succeeding triennial valuation in respect of the degree of deficiency as shown in the valuation as of December 31, 1918. If at any succeeding triennial valuation such association does not show at least the same condition, the Insurance Commissioner shall direct that it thereafter comply with the requirements herein specified. If the next succeeding triennial valuation after the receipt of such notice shall show that the association has failed to maintain the condition required herein, the Insurance Commissioner may,

in the absence of good cause shown for such failure, institute proceedings for the dissolution of such association, in accordance with the provisions of Section 8061, or in the case of a foreign association, its license may be cancelled in the manner provided in this Article. Any such association shown by any triennial valuation subsequent to December 31, 1918, not to have maintained the condition herein required shall, within two years thereafter, make such improvement as to show a percentage of deficiency not greater than as of December 31, 1918, or thereafter, as to all new members admitted, be subject, so far as stated rates of contributions are concerned, to the provisions of Section 8032, applicable in the organization of new association: *Provided*, That the net mortuary or beneficiary contributions and funds of such new members shall be kept separate and apart from the other funds of the association. If such required improvement is not shown by the succeeding triennial valuation, then the said new members may be placed in a separate class and their certificates valued as an independent association in respect of contributions and funds. In lieu of the requirements contained in this section any association accepting in its laws the provisions of this Section may value its certificates on a basis, herein designated "accumulation basis," by crediting each member with the net amount contributed for each year and with interest at approximately the net rate earned and by charging him with the share of the losses of each year, herein designated "cost of insurance," and carrying the balance, if any, to his credit. The charge for the cost of insurance may be according to the actual experience of the society applied to a table of mortality recognized by the law of this State and shall take into consideration the amount at risk during each year, which shall be the amount payable at death less the credit to the member. Except as specifically provided in its articles or laws or contracts, no charge shall be carried forward from the first valuation hereunder against any member for any past share of losses exceeding the contributions and credit. If, after the first valuation, any member's share of losses for any year exceeds his credit, including the contribution for the year, the contribution shall be increased to cover his share of the losses, and if the credit at the time any benefit becomes payable during the lifetime of the member, including any available funds, does not equal such benefit, the contributions to be made by him or on his behalf shall be increased by the difference. Any such ex-

cess share of losses chargeable to any member may be paid out of a fund or contribution especially created or required for such purpose. Any member may transfer to any plan adopted by the association with net rates on which tabular reserves are maintained and on such transfer shall be entitled to make such application of his credit as provided in the laws of the association. Certificates issued, rerated or readjusted on a basis providing for adequate rates with adequate reserves to mature such certificates upon assumptions for mortality and interest recognized by the law of this State shall be valued on such basis, herein designated the "tabular basis:" *Provided*, That if on the first valuation under this Section a deficiency in reserve shall be shown for any such certificate, the same shall be valued on the accumulation basis. Whenever in any society having members upon the tabular basis and upon the accumulation basis the total of all costs of insurance provided for any year shall be insufficient to meet the actual death and disability losses for the year, the deficiency shall be met for the year from the available funds after setting aside all credits in the reserve; or from increased contributions or by an increase in the number of assessments applied to the society as a whole or to classes of members as may be specified in its laws. Saving from a lower amount of death losses may be returned in like manner as may be specified in its laws. If the laws of the association so provide, the assets representing the reserves of any separate class of members may be carried separately for such class as if in an independent society, and the required reserve accumulation of such class so set apart shall not thereafter be mingled with the assets of other classes of the association. A table showing the rates paid by and the credits to individual members and each age and year of entry, and showing opposite each credit the tabular rates and the tabular reserve required, or at the option of the association the required reserve on a level rate equivalent to that be paid according to assumptions for mortality and interest recognized by the laws of this State and adopted by the association, and, in either case, including any benefit payable at a specified age or on account of old age disability shall be filed by the association with each annual report and also be furnished to each member before July 1 of each year. In lieu of the aforesaid statement there may be furnished to each member within the same time a statement giving the date aforesaid for such member. No table or statement need be made or furnished

when the reserves are maintained on the tabular basis. For this purpose, individual bookkeeping accounts for each member shall not be required and all calculations may be made by actuarial methods. Nothing herein contained shall prevent the maintenance of such surplus over and above the credits on the accumulation basis and the reserves on the tabular basis as the association may provide by or pursuant to its laws; nor be construed as giving the individual member any right or claim to any such reserve or credit other than in manner as expressed in the contract and its laws; nor as making any such reserve or credits a liability in determining the legal solvency of the association.

Civ. C. '22, § 4173; Civ. C. '12, § 2764; 1910, XXVI, 554; 1919, XXXI, 171.

(8061) Examination of Records by the Insurance Commissioner.—The Insurance Commissioner, or any person he may appoint, shall have the power of visitation and examination into the affairs of any domestic association. He may employ assistance for the purpose of such examination, and he, or any person he may appoint, shall have free access to all the books, papers and documents that relate to the business of the association and may summon and qualify as witness under oath and examine its officers, agents and employees or other persons in relation to the affairs, transactions and condition of the association. The expense of such examination shall be paid by the association examined upon statement furnished by the Insurance Commissioner, and the examination shall be made at least once in three years. Whenever after examination the Insurance Commissioner is satisfied that any domestic association has failed to comply with any provisions of this Article, or is exceeding its powers, or is not carrying out its contracts in good faith, or is transacting business fraudulently, or whenever any domestic association, after the existence of one year or more, shall have a membership of less than 400 (or shall determine to discontinue business), the Insurance Commissioner may present the facts relating thereto to the Attorney General, who shall, if he deem the circumstances warrant, commence an action in *quo warranto* in a court of competent jurisdiction, and such court shall thereupon notify the officers of such association of a hearing, and if it shall then appear that such association should be closed, said association shall be enjoined from carrying on any

further business, and some person shall be appointed receiver of such association, and shall proceed at once to take possession of the books, papers, moneys and other assets of the association, and shall forthwith, under the direction of the court, proceed to close the affairs of the association and to distribute its funds to those entitled thereto. No such proceedings shall be commenced by the Attorney General against any such association until after notice has been duly served on the chief executive officers of the association and a reasonable opportunity given to it, on a date to be named in said notice, to show cause why such proceedings shall not be commenced.

Civ. C. '22, § 4174; Civ. C. '12, § 2765; 1910, XXVI, 554; 1919, XXXI, 171.

(8062) Dissolution of Domestic Association Only Upon Application of Attorney General.—No application for injunction against, or proceedings for the dissolution of, or the appointment of a receiver for any such domestic association or branch thereof shall be entertained by any court in this State unless the same is made by the Attorney General.

Civ. C. '22, § 4175; 1919, XXXI, 171.

(8063) Associations to Have Reply to Findings of Insurance Commissioner Before They Are Made Public.—Pending, during or after an examination or investigation of any such association, either domestic or foreign, the Insurance Commissioner shall make public no financial statement, report or finding, nor shall he permit to become public any financial statement, report or finding affecting the status, standing or rights of any such society, until a copy thereof shall have been served upon such association, at its home office, nor until such association shall have been afforded a reasonable opportunity to answer any such financial statement, report or finding and to make such showing in connection therewith as it may desire.

Civ. C. '22, § 4176; 1919, XXXI, 171.

(8064) Powers of Insurance Commissioner as to Foreign Societies.—When the Insurance Commissioner, on investigation, is satisfied that any foreign society transacting business under this Article has exceeded its powers or has failed to comply with any provision of this Article, or is conducting business fraudulently or is not carrying out its contracts in good faith, he shall notify the association of his findings, and state in writ-

ing the grounds of his dissatisfaction, and after reasonable notice require said society, on a date named, to show cause why its license should not be revoked. If on the date named in said notice such objections have not been removed to the satisfaction of the said Insurance Commissioner, or the association does not present good and sufficient reasons why its authority to transact business in this State should not at that time be revoked, he may revoke the authority of the association to continue business in this State. All decisions and findings of the Insurance Commissioner made under the provisions of this Section may be reviewed by proper proceedings in any court of competent jurisdiction, as provided in Section 8055.

Civ. C. '22, § 4177; 1919, XXXI, 171.

(8065) Article Not to Apply to Certain Associations.—Nothing contained in this Article shall be construed to affect or apply to associations which limit their membership to any one hazardous occupation, nor to similar societies which do not issue insurance certificates, nor to an association of local lodges of an association now doing business in this State which provides death benefits not exceeding five hundred dollars to any one person, or disability benefits not exceeding three hundred dollars in any one year to any one person, or both, nor to any contracts or reinsurance business on such plan in this State, nor to domestic associations which limit their membership to the employees of a particular city or town, designated firm, business house or corporation, nor to domestic lodges, orders or associations of a purely religious, charitable and benevolent description which do not provide for a death benefit of more than one hundred dollars, or for disability benefits of more than one hundred and fifty dollars to any one person in any one year. The Insurance Commissioner may require from any association such information as will enable him to determine whether such society is exempt from the provisions of this Article. Any fraternal benefit association heretofore organized and incorporated and operating within the definition set forth in Sections 8030 and 8031, providing for benefits in case of death or disability resulting solely from accidents, but which does not obligate itself to pay death or sick benefits, may be licensed under the provisions of this Article, and shall have all the privileges and shall be subject to all the provisions and regulations of this Article, except that the provisions of this Article requiring medical ex-

aminations, valuations of benefit certificates, and that the certificate shall specify the amount of benefits, shall not apply to such society.

Civ. C. '22, § 4178; Civ. '12, § 2766; 1910, XXVI, 554; 1919, XXXI, 171.

(8066) Funds of Licensed Associations Exempt from Taxation.—Every fraternal benefit association organized or licensed under this Article is hereby declared to be a charitable and benevolent institution, and all of its funds shall be exempt from all and every State, county, district, municipal and school tax, other than taxes on real estate and office equipment.

Civ. C. '22, § 4179; 1919, XXXI, 171.

(8067) False Statements Punishable—Penalty—Soliciting Members for Unlicensed Association—Penalty for Violation of Other Provisions of Article.—Any person, officer, member or examining physician of any association authorized to do business under this Article who shall knowingly or wilfully make any false or fraudulent statement or representation in or with reference to any application for membership, or for the purpose of obtaining money from or benefit in any association transacting business under this Article, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or imprisonment in the county jail for not less than thirty days nor more than one year, or both, in the discretion of the Court, and any person who shall wilfully make a false statement of any material fact or thing in a sworn statement as to the death or disability of a certificate holder in any such association for the purpose of procuring payment of a benefit named in the certificate of such holder, and any person who shall wilfully make any false statement in any verified report or declaration under oath required or authorized by this Article, shall be guilty of perjury, and shall be proceeded against and punished as provided by the statutes of this State in relation to the crime of perjury. Any person who shall solicit membership for, or in any manner assist in procuring membership in, any fraternal benefit association not licensed to do business in this State, or who shall solicit membership for, or in any manner assist in procuring membership in, any such association not authorized as herein provided to do business as herein defined in this State, shall be punished by a fine of not less than fifty nor more than two hundred dollars. Any association, or any officer,

agent or employee thereof, neglecting or refusing to comply with, or violating any of the provisions of, this Article, the penalty for which neglect, refusal or violation is not specified in this Section, shall be fined not exceeding two hundred dollars upon conviction thereof.

Civ. C. '22, § 4180; Civ. C. '22, § 905; 1919, XXXI, 171.

(8068) No Personal Liability of Officers or Members.—Officers and members of the supreme, grand or any subordinate body of any such incorporated association shall not be individually liable for the payment of any disability or death benefit provided for in the laws and agreements of such association; but the same shall be payable only out of the funds of such association and in the manner provided by its laws.

Civ. C. '22, § 4181; 1919, XXXI, 171.

(8069) License Prima Facie Evidence.—The Insurance Commissioner, as of April 1 of each year, shall license such associations as comply with the provisions of this Article. A duly certified copy of such license shall be *prima facie* evidence in any court or proceedings in this State that the license (association) is a fraternal benefit association within the meaning of this Article.

Civ. C. '22, § 4182; Civ. '12, § 2767; 1910, XXVI, 781.

(8070) General Insurance Laws.—Fraternal benefit associations as defined in this article, shall be governed by the provisions hereof, and the general insurance laws of this State in force or hereafter enacted shall not apply to such associations unless provision therefor has been made or shall be made.

Civ. C. '22, § 4183; Civ. C. '12, § 2768; 1910, XXVI, 554.

(8071) Organization of Subordinate Branches.—Before any person shall be authorized to organize a subordinate branch or solicit membership or insurance for any such association, the Insurance Commissioner shall be notified of the appointment of such person by the president or corresponding officer of such association. If proof satisfactory to the Insurance Commissioner that any representative of any such association in this State is an unfit person, or has been guilty of defrauding any person or persons by reason of being the representative of such association, he shall notify the president or corresponding officer of such association who shall revoke the authority of such person to represent such association: *Provided*, That nothing in this

Article shall be construed to prevent a member from soliciting applications for membership in his own lodge unless he shall do so for the purpose of gaining a livelihood.

Civ. C. '22, § 4184; Civ. '12, § 2769; 1910, XXVI, 554.

(8072) Who Are Agents of Fraternal, Etc., Associations.—When any fraternal insurance or beneficiary society, order or association of this or any other State, province, or territory, now or hereafter operating within this State, and having lodges, councils, chapters, branches or subordinate or branch offices duly established and organized in this State, and when under the laws, rules or regulations of such said society, order or association, members of the same are required to pay or customarily and with the knowledge and consent of such said society, order or association, do pay premiums, dues, assessments, fines, or other payments to any other member or person for the purpose of transmitting or delivering the same to the general office, or to any division, subordinate or branch office of such said society, order or association, then such said member or person by whatever name or title known and called, so collecting such premiums, dues, assessments, fines and other payments, shall be deemed and considered the agents of such said fraternal insurance, or beneficiary society, order or association.

Civ. C. '22, § 4185; Civ. '12, § 2770; 1910, XXVI, 781.

MUTUAL PROTECTIVE ASSOCIATIONS

(8073) How Mutual Protective Associations May Be Formed.—Any number of persons of lawful age, citizens of this State, not less than ten (10) in number, may associate themselves together as a mutual protection association for the indemnifying of each other for loss on the assessment plan, and not for profit, for any one or more of the following purposes: (1) To insure the lives or health of its members against death or disability by accident or disease; (2) to insure the property of its members against loss or damage by fire, lightning or tempest on land or hazards incidental thereto or proceeding therefrom; (3) to insure the crops of its members against damage by hail or tempest on land; (4) to insure the live stock of its members against loss or damage by accident or disease.

Civ. C. '22, § 4186; Civ. '12, § 2771; 1910, XXVI, 548; 1917, XXX, 55.

(8074) Form of Petition for License.—Ten or more persons wishing to form themselves into a company for any one of the

purposes stated in Section 8073 shall file with the Secretary of State a written declaration and petition, signed by themselves and setting forth: (1) The names and residences of the declarants; (2) the name of the proposed company, which shall be different from the name of any association previously chartered, and the name shall indicate the purpose for which the association is formed, (3) the principal place of business of the proposed company, and the purpose for which it is to be organized, which purpose shall be to enable its members, and all who may hereafter become members, to indemnify each other against the loss specified, and to enforce any contract which may be by them entered into, whereby they agree to be assessed equitably for the payment of losses of its members and the expenses of the company: *Provided,* That in case the by-laws or policy of insurance of the mutual company provides for the suspension of the policy for any cause and permits a policyholder to renew his insurance by paying such assessments as may have accrued during the suspension of his policy for nonpayment of previous assessments or other causes, that unless the member shall notify the company in writing and return his policy for cancellation, he shall be subject to such assessments during the period of suspension: *Provided, however,* That a company organized and doing business in one county, may cede to or reinsure a part of its insurance on risk or risks to any other company organized and doing business in any other county insuring the same class of risks For the purpose of instituting an action against any such company processes may be served upon the Insurance Commissioner, who shall forthwith send the same to the defendant company: *Provided,* That no association shall accept any application for membership for life or health insurance until such applicant has been examined and approved by a reputable, regularly licensed physician, practicing in said county.

Each county branch of a company shall have an interest in the accumulated funds of the company in proportion to its contributions thereto, and an account of the same shall be made when necessary. An annual license fee of ten ($10.00) dollars for the home county, and one ($1.00) dollar for each additional county shall be paid to the Insurance Commissioner as an insurance department license fee.

Civ. C. '22, § 4187; Civ. C. '12, § 2772; 1910, XXVI, 548; 1913, XXVIII, 54; 1917, XXX, 55; 1918, XXX, 784; 1920, XXXI, 848.

(8075) Assignment of Policies.—When any policy of insurance is issued by any mutual insurance company or association organized under the laws of this State and such policy is assigned as collateral security for the payment of a debt, such company or association, by its president and secretary or other managing officers, may insert in such policy so assigned, or attach thereto as a rider thereon, a provision or provisions to be approved by the Insurance Commissiner, whereby any or all conditions of the policy which work a suspension or forfeiture, and especially the provision of the statute which limits such corporation to insure only property of its members, may be waived in such case for the benefit of the assignee. In case any such company or association shall consent to such assignment of any policy or policies, or the proceeds thereof, it may nevertheless at any time thereafter, by its president and secretary, or such other officer as may be authorized by the board of directors, cancel such policy, upon giving the assignee not less than ten (10) days' notice in writing: *Provided, however,* A longer period may be agreed upon by the company or association and such assignee. And the president and secretary of such company or association, with the approval of the Insurance Commissioner, may agree with the assignee upon an assessment or premium to be paid to the insurer in case the insured shall not pay the same, which shall not be less than such a rate or sum of money as may be produced by the average assessments or premiums made or charged by the company or association during a period of five years next preceding the year of such agreement and assignment. When an assignment is made as herein provided the policy or policies so assigned, subject to the conditions herein, shall remain in full force and effect for the benefit of the assignee, notwithstanding the title or ownership of the assured to the property insured, or to any interest therein, shall be in any manner changed, transferred or encumbered.

Civ. C. '22, § 4188; 1920, XXXI, 848.

(8076) Approval and Filing of Petition.—The declaration and petition shall be approved by the Insurance Commissioner, and upon the production of such approval, and of the receipt for ten dollars, certificate fee, from the State Treasurer, and the payment of the usual costs for recording, the declaration and petition shall be filed in the office of the Secretary of State. A copy of the declaration and petition, duly certified by the Secre-

tary of State, shall be evidence of the existence and incorporation of the association for the purposes named therein.

Civ. C. '22, § 4189; Civ. C. '12, § 2773; 1910, XXVI, 548.

(8077) Organization of Association.—When such declaration and petition are so filed, and a copy thereof so certified, forwarded to the association, the persons named therein shall elect their directors and a president, secretary and treasurer, and such other officers as may be necessary for the complete performance of all the business and objects of the association herein provided, to serve for one year and until their successors are elected and have qualified. Before such association shall be licensed to do business and before any policy shall be issued by it, the president and secretary shall certify, under oath, that not less than twenty-five adult residents shall have subscribed for not less than twenty-five thousand dollars insurance and agreed to take policies of insurance within thirty days after issuance of license. Such list of subscribers shall be filed with the Insurance Commissioner, and the president and secretary of the association shall certify that each subscription is genuine.

Civ. C. '22, § 4190; Civ. C. '12, § 2774; 1910, XXVI, 548.

(8078) Rights of Members.—Each policyholder of any such association shall be a member thereof and entitled to vote at all meetings and elections, and the proper officer of the association shall notify each member of every meeting and election to be held, by mailing a notice thereof, addressed to him at his last known residence, at least thirty days prior thereto, or by publishing a notice of the meeting once a week, for four weeks, in a newspaper in each county in which such association does business. Any member of said association may execute a proxy to any other member, authorizing such other to vote and act as his proxy at any meeting of the association; but no person shall vote or act as proxy for more than twenty members, or shall act or vote under the direction of one who holds or controls the proxies of more than twenty members. All proxies shall be filed with the association at least one day prior to the day of election, and shall expire within six months from their date.

Civ. C. '22, § 4191; Civ. C. '12, § 2775; 1910, XXVI, 548.

(8079) Constitution—By-Laws—Directors—Meetings—General Regulations of Associations.—Each such company shall have

such officers as its constitution or by-laws may provide, and shall have at least nine directors. There shall be at least one annual, general meeting of the policyholders. The directors shall meet at such times as shall be required, at least once a year. The directors shall be elected at the annual meeting of the policyholders. The other officers shall be elected for not longer terms than two years, at such times and in such manner as the by-laws may direct. The compensation of each officer may be either definite and certain or may be contingent upon losses, but shall be fixed before the duties of office are entered upon or the service performed. In each case in which a policy of insurance is written, it shall be approved in writing by at least one officer, whose compensation shall not be contingent upon such approval, but the absence of such written approval shall not invalidate any policy. An accurate account of all receipts and disbursements, together with the exact amount paid to each officer, shall be made by the treasurer to the annual meeting of policyholders, and shall be certified to the Insurance Commissioner. No officer of a mutual company shall give, either officially or privately, a guarantee or estimate to a policyholder against an assessment to which he may be liable. If the officers of any such company neglect or omit to levy and collect with all practicable diligence any assessment the Insurance Commissioner, upon his ascertainment of such neglect or omission, may apply to any Court of competent jurisdiction for a mandamus to compel the performance of such neglect or omission. It shall be the duty of the Attorney General or any of the several Solicitors, upon application of the Insurance Commissioner, to institute such proceedings in the name of the State. But any such company may defer such assessment for not longer than one year, provided it pays its losses within sixty days, after due notice and satisfactory proof of loss, by borrowing money on its own note, or by other means, in accordance with its constitution or by-laws. Any public or private corporation, board or association, executor, administrator or guardian, or any person holding property in trust in this State or elsewhere, may insure the same in such companies, assume the liabilities, and be entitled to the rights of a member, may make application for, enter into agreements for, and hold policies in any mutual insurance company. Any officer, stockholder, trustee or legal representative of any such corporation, board, association or estate may be recognized as

acting for or on its behalf for the purpose of such membership, but shall not be personally liable upon such contract of insurance by reason of acting in such representative capacity. Any number of mutual insurance companies, not less than three in number, may form a mutual reinsurance company, for mutual reinsurance of their risks. Any mutual insurance company may effect reinsurance in some other fire insurance company of this State, or of any other State licensed in this State, doing business in this State, and in like manner to reinsure similar risks of any other such company. Any mutual insurance company may by resolution of its board of directors authorize the company to become a member of a reinsurance company already organized or to be organized under the laws of this State. A representative of such mutual insurance company shall thereupon be authorized by the board of directors to represent such company in forming and organizing such reinsurance company or to take such action as may be necessary to become a part of a reinsurance company already organized. Such mutual reinsurance companies may be organized in the following manner: The representative selected by each mutual insurance company shall file a declaration with the Secretary of State setting forth the names of the member companies, the counties in which they do business, the postoffice address thereof, the resolution or resolutions of each of said companies authorizing it to become a member of such mutual reinsurance company, the name of the person selected to represent each mutual company, the name of the proposed reinsurance company, the purpose for which the reinsurance company is to be organized, which purpose shall be to enable the member companies or such other like companies as may thereafter become members thereof to reinsure their risks, to permit and require the reinsurance company to levy pro rata assessments upon all member companies and their individual members to pay losses and expenses thereof.

Civ. C. '22, § 4192; Civ. C. '12, § 2776; 1910, XXVI, 548; 1917, XXX, 55; 1918, XXX, 784.

(8080) Charter of Reinsurance Companies.—Such reinsurance company shall be chartered in accordance with the provisions of Section 8076 applying to mutual protection associations.

Civ. C. '22, § 4193; 1917, XXX, 55.

(8081) Board of Directors of Reinsurance Companies—Duties and Powers.—The representatives selected under the provisions hereof shall constitute the board of directors of such reinsurance company and shall hold their office for a period of two years and until their successors are elected by the board or boards of directors of the member companies, and in case of vacancy in said board by death, resignation or otherwise, a successor may be chosen in the manner hereinabove provided. Said board shall elect a president, secretary and treasurer and such other officers as may be necessary, and may authorize the employment of such other persons as may be desirable and necessary for the complete performance of all of the business and objects of the company herein provided, to fix the salaries and compensation of officers and employees, to adopt by-laws and such rules and regulations as may be desirable and not inconsistent with law, to possess such powers and privileges and be subject to such duties, so far as they are consistent herewith and practicable, as are conferred upon or imposed upon member companies by the provisions of this article. And all property insured by a member company shall be subject to the lawful obligations of said reinsurance company to the extent and in the manner and mode as is provided for in favor of member companies in Section 8085. Such reinsurance company shall pay an annual Insurance Department license fee of five ($5.00) dollars.

Civ. C. '22, § 4194; 1917, XXX, 55.

(8082) Assessments for Reinsurance.—Member companies shall be notified of the gross amount of each assessment levied against it by a reinsurance company and said member company shall assess and collect the same in the same manner as its other assessments are levied and collected and transmit the proceeds thereof to the reinsurance company of which it is a member.

Civ. C. '22, § 4195; 1917, XXX, 55.

(8083) Continuation of Existing Charters.—This article shall not repeal the charter of any mutual insurance company now organized and doing business in this State. All such charters heretofore granted or that may hereafter be granted under the laws of this State shall be perpetual and subject only to alteration, amendment or repeal by the General Assembly, and

such companies shall not be limited in the number of policies or the aggregate amount of insurance that may be written.

Civ. C. '22, § 4196; 1917, XXX, 55.

(8084) Reserve Fund.—Such an association may accumulate in its treasury a reserve fund, in such an amount and by such means as its constitution and by-laws permit. Such funds shall be invested in such manner as its directors may direct, in accordance with the laws governing investments by insurance companies in this State. Such association may make and enforce such constitution and by-laws as may be necessary for the proper conduct of its business, and which are not in conflict with the laws of this State. But only such portions of the constitution and by-laws shall be a part of a policy contract as shall be printed in the policy certificate, or as shall be mailed to the policyholder at its last known postoffice address.

Civ. C. '22, § 4197; Civ. C. '12, § 2777; 1910, XXVI, 548.

(8085) Lien for Insurance.—All property insured by any mutual association shall be pledged to such association, together with the right and title of the assured in the lands upon which it is situate, to the amount of the premium note or contingent liability, and the association shall have a lien thereon to the amount of such note or contingent liability, but the lien of the association shall not take effect as against third parties without notice until the association files with the register of mesne conveyance or clerk of the court of the county in which the property insured is situate a certificate stating the date, number and amount of premium note or contingent liability, and such description of the property insured, as will enable any person readily to identify the same. The clerk of court or register of mesne conveyance shall record and index the certificate in a book kept for such purpose, for which he shall receive the sum of fifteen cents; and all liens heretofore acquired by any such association shall continue in force under this article.

Civ. C. '22, § 4198; Civ. C. ,'12, § 2778; 1910, XXVI, 548.

(8086) Associations May Become Joint Stock Companies.—Any mutual protective association, after having given notice once a week for six weeks of its intention to do so, and of the meeting hereinafter provided for, in a newspaper published in each county in which such association does business, may, with the consent in writing of two-thirds of the members of such as-

sociation, and the consent of three-fourths of its directors, become a joint stock corporation, subject to the existing laws of this state applicable to such corporations. The policyholders of said association shall have the first right to subscribe to said stock, subject to such equitable regulations as the directors may prescribe; but all such subscriptions must be made in cash and at not less than par. The assets, if any, and the liabilities of the mutual association, shall thereupon be and become the assets of the stock company, except so far as herein otherwise provided. But it is hereby made the duty of the Insurance Commissioner to ascertain the interest in said assets of all the members of the mutual association who have not given their consent as aforesaid to the change of said association into a stock company. The interest so ascertained shall be paid over to such non-assenting members, and upon payment or tender to them of said interest so ascertained their membership shall cease and be determined. The balance of such assets, less the provision made above for the protection of outstanding policyholders, shall be deposited with the Insurance Commissioner as a guarantee fund for the payment of the policies of insurance issued by said association. The mutual policies, and the rights and liabilities attached thereto, and all the powers and obligations of the association, shall remain in force, except that such policies shall be thereafter considered as policies for the largest amount which, according to their terms, might be payable thereunder in case the assessment provided for should yield a sufficient amount to pay the same. If any certain number of assessments be specified upon said policies as payable by the holders thereof, the association shall not be entitled to levy any further assessments, even although such rights have been expressly reserved in the policy: *Provided, however,* That before any such association shall be entitled to do business as a stock company, as aforesaid, the Insurance Commissioner shall, upon request, value the assets of the said association and its outstanding policies, and shall find and give his certificate that the admitted assets of the said association including its capital stock, are sufficient to provide reserve upon all outstanding policies, as required by the laws of this state in relation to insurance companies.

Civ. C. '22, § 4199; Civ. C. '12, § 2779; 1910, XXVI, 548.

(8087) Previous Charters Not Repealed.—This article shall not repeal the charter or affect the organization of any mutual

protective association organized under Sections 1912 to 1916 of the Code of Laws of 1902; and as to such associations, it shall affect them only in so far as it may regulate the management thereof.

Civ. C. '22, § 4200; Civ. C. '12, § 2780; 1910, XXVI, 548.

Act 224 of 1933. Requiring Deposits, etc., by Mutual Protective Associations.

Section 1: Certain Mutual Protective Associations to Deposit Securities for Payment of Judgments.—Be it enacted by the General Assembly of the State of South Carolina: Any Mutual Protective Association, doing business in more than two adjoining counties and engaged in writing life insurance policies in which death benefits of more than One Hundred ($100.00) Dollars are provided, shall deposit with the Insurance Commissioner of the State of South Carolina the sum of five thousand ($5,000.00) dollars, or shall deposit with the Insurance Commissioner of South Carolina valid securities aggregating five thousand ($5,000.00) dollars, or a bond of said amount by a solvent surety company, said Insurance Commissioner to be the judge of the validity and adequacy of such securities and bond, which bond shall be conditioned to pay any judgment entered up in any court of competent jurisdiction upon a policy of insurance issued to any citizen of this state by any such association, and said judgment shall be a lien upon such security.

Section 2: Providing Securities—Schedule.—Such Mutual Protective Associations which are now, or heretofore have been licensed to do business in the State of South Carolina, and which are operating in more than two adjoining counties, or have certificates of death benefits outstanding for more than the sum of one hundred ($100.00) dollars, shall comply with the provisions of this act by depositing with the said Insurance Commissioner two hundred fifty ($250.00) dollars on or before June 1, 1933; two hundred fifty ($250.00) dollars on or before October 1, 1933; two hundred fifty ($250.00) dollars on or before December 31, 1933; and two hundred fifty ($250.00) dollars on or before April 1, 1934, and one thousand ($1,000.00) dollars on or before April, 1, 1935; one thousand ($1,000.00) dollars on or before April 1, 1936; one thousand ($1,000.00) dollars on or before April 1, 1937 and one thousand ($1,000.00) dollars on or before April 1, 1938. *Provided*, That the deposits required in this section

may be made either in cash or in valid securities, or by surety bond of proper amount as above set forth; said Insurance Commissioner to be the judge of the validity and adequacy of such securities and bond, which bond shall be conditioned to pay any judgment entered up in any court of competent jurisdiction upon a policy of insurance issued to any citizen of this state by any such association, and said judgment shall be a lien upon such security.

Section 3: Reserve Fund.—In addition to the requirements set up in Sections 1 or 2 of this act, each such Mutual Protective Association, as soon as such requirements shall have been complied with in full, shall create and maintain a reserve fund to be increased annually at the rate of one ($1.00) dollar per year for each new thousand dollars of insurance actually in force as of December 31st of the preceding year, and such fund to be held in trust by such association for the purpose of paying claims.

Section 4: Formation of New Associations—Subscribers Necessary.—Before any Mutual Protective Association not now licensed to do business in this State, and which proposes to do business in more than two adjoining counties, and proposes to write life insurance policies in which death benefits of more than one hundred ($100.00) dollars are provided shall be licensed to do business in this state, and before any policy shall be issued by it, the president and secretary shall certify, under oath, that not less than one thousand adult residents shall have subscribed for not less than one thousand policies of insurance in the amount of not less than one thousand ($1,000.00) dollars each, and agrees to take policies of insurance in thirty (30) days after the issuance of said license. Such list of subscribers shall be filed with the Insurance Commissioner and the president and secretary of the association shall certify that each subscription is genuine.

Section 5: Association Officials File Bonds.—Every official of a Mutual Protective Association engaged in business in the State of South Carolina, shall file with the Insurance Commissioner a bond executed by a reliable surety company, conditioned upon the faithful performance of his duties, and in an amount fixed by the Insurance Commissioner.

Section 6: Certificates—Maximum Amount.—No such Mutual Protective Association shall issue a certificate for more than two thousand ($2,000.00) dollars to any one member.

MUTUAL AID OR BENEVOLENT ASSOCIATIONS

(8111) Mutual Aid Associations May Be Formed by Religious Denominations, Fraternal Orders, Etc.—Members of religious denominations or local lodges of fraternal orders under the control and supervision of a representative governing body within this state, or local labor organizations with a national or international charter, may form mutual associations, incorporated or unincorporated, for the purpose of aiding their members or their beneficiaries in times of sickness and death by levying equitable assessments for the payment of sick relief or death benefits, upon compliance with the terms of this article.

Civ. C. '22, § 4224; 1914, XXVIII, 666.

(8112) No Agent.—Such association shall have no paid agents for the soliciting of business or members, and shall be conducted without profit. They shall file an annual report with the Insurance Commissioner, who shall issue to them a certificate showing that they have complied with the law of this State.

Civ. C. '22, § 4225; 1914, XXVIII, 666.

(8113) Exempt from License Fees.—Such associations shall pay no license fee and shall be subject only to such examination by the Insurance Commissioner as will enable him to determine that such associations have complied with the insurance laws of the state. Nothing in this article shall be construed to prevent such associations as are now operating in this state from continuing to operate on their present plans.

Civ. C. '22, § 4226; 1914, XXVIII, 666.

MUTUAL INSURANCE COMPANIES

(8088) Incorporation of Mutual Insurance Associations.—Any number of persons, not less than twenty, a majority of whom shall be *bona fide* residents of this State, by complying with the provisions of this article, may become, together with others who may hereafter be associated with them or their successors, a body corporate for the purpose of carrying on the business of mutual insurance as herein provided.

Civ. C. '22, § 4201; 1915, XXIX, 96; 1920, XXXI, 910.

(8089) Articles of Incorporation.—Any persons proposing to form any such company shall subscribe and acknowledge articles of incorporation specifying:

(a) The name, the purpose for which formed, and the location of its principal or home office, which shall be within this State.

(b) The names and addresses of those composing the board of directors in which the management shall be vested until the first meeting of the members.

(c) The names and places of residence of the incorporators.

Civ. C. '22, § 4202; 1915, XXIX, 96; 1920, XXXI, 910.

(8090) Names.—No name shall be adopted by such company which does not contain the word "mutual", or which is so similar to any name already in use by any such existing corporation, company or association, organized or doing business in the United States, as to be confusing or misleading.

Civ. C. '22, § 4203; 1920, XXXI, 910.

(8091) Approval of Insurance Commissioner—Issue of Charter—Amendment.—These articles of incorporation, executed in duplicate, shall be submitted to the Insurance Commissioner, and if found by him to comply with this article, he shall endorse his approval thereon, and shall file one in his office and shall cause the other to be filed in the office of the Secretary of State. If the Secretary of State shall find that said articles of incorporation conform to the law, he shall forthwith issue a certificate to said company, to be known as a charter, which shall set forth the fact of incorporation and organization according to the laws of South Carolina. A copy of said charter shall be recorded in the office of the register of mesne conveyance or clerk for the county in which the principal office of said corporation is to be located. Such charter or articles of incorporation may be amended in the manner provided for other corporations or as may be provided in such articles.

Civ. C. '22, § 4240; 1915, XXIX, 96; 1920, XXXI, 910.

(8092) Completion of Organization—By-Laws.—The corporation shall have legal existence as soon as the charter shall have been issued by the Secretary of State. The board of directors named in such articles may thereupon adopt by-laws, accept applications for insurance, and proceed to transact the business of such company: *Provided*, That no insurance shall be put in force until the company has been licensed to transact insurance as provided by this article. Such by-laws and any amendments

thereto shall within thirty days after adoption be filed with said commissioner.

Civ. C. '22, § 4205; 1920, XXXI, 910.

(8093) Kind of Insurance.—Any company organized under the provisions of this article is empowered and authorized to make contracts of insurance, or to reinsure or accept reinsurance on any portion thereof, to the extent specified in its articles of incorporation, for the kinds of insurance following: (1) Against loss or damage to property and loss of use and occupancy by fire, lightning, windstorm, tornado, cyclone, hail, tempest, flood, earthquake, frost or snow, bombardment, invasion, insurrection, riot, civil war or commotion, military or usurped power, explosion, fire ensuing and explosion, no fire ensuing, except explosion by steam boilers or fly wheels; against loss or damage by water caused by the breakage or leakage of sprinklers, pumps, or other apparatus, water pipes, plumbing, or their fixtures, erected for extinguishing fires, and against accidental injury to such sprinklers, pumps or other apparatus, water pipes, plumbing or fixtures; against loss or damage to any goods or premises of the assured and loss or damage to the property of another for which the assured is liable, caused by the leakage of roofs, leaders and spouting, or by rain and snow driven through broken and open windows and skylights, or caused by the contents of any tank, or impact of any falling tank, tank platform or supports erected in or upon any building; against the risks of inland transportation and navigation; upon automobiles, airplanes, seaplanes, dirigibles or other aircraft, whether or not operated under their own power, against loss or damage by any of the causes or risks specified in this subsection, including also explosion, transportation, collision, liability for damage to property resulting from owning, maintaining or using automobiles and including burglary and theft, but not including loss or damage by reason of bodily injury to the person.

(2) Against loss, expense or liability, by reason of bodily injury or death by accident, disability, sickness or disease suffered by others for which the insured may be liable or have assumed liability, including workman's compensation.

(3) Against bodily injury or death by accident and disability by sickness.

(4) Against any or all loss, expense and liability resulting

from the ownership, maintenance or use of any automobile or other vehicle.

(5) Against loss or liability to persons or property resulting from explosions or accidents to boilers, containers, pipes, engines, fly wheels, elevators and machinery in connection with and against loss of use and occupancy caused thereby, and make inspections and issue certificates of inspection thereon.

(6) To guarantee the fidelity of persons in position of trust, private or public, and to act as surety of official bonds and for the performance of other obligations.

(7) To insure against the breakage of plate glass, local or in transit.

(8) To insure against property loss or damage by burglary, robbery, any larceny, any breakage and entry, or entry without breaking, of any house, building, ship, vessel, or railroad car, and loss or damage by forgery.

(9) Against loss from interruption of trade or business which may be the result of any accident or casualty.

(10) Against loss or damage by any hazard upon any risk not provided for in this section, which is not prohibited by statute or at common law from being the subject of insurance, excepting life insurance.

Civ. C. '22, § 4206; 1915, XXIX, 96; 1920, XXXI, 910.

(8094) Requisites for Transaction of Business of Insurance.—No corporation organized under this article shall issue policies or transact any business of insurance unless it shall comply with the conditions following, nor until the Insurance Commissioner has, by formal license, authorized it to do so, which license shall not issue until the corporation has complied with the following conditions:

(a) It shall hold *bona fide* applications for insurance upon which it shall issue simultaneously, or it shall have in force, at least twenty policies to at least twenty members for the same kind of insurance upon not less than one hundred separate risks, each within the maximum single risk described herein.

(b) The "maximum single risk" shall not exceed twenty per cent. of the admitted assets or three times the average risk or one per cent. of the insurance in force, which ever is the greater, any reinsurance taking effect simultaneously with the policy being deducted in determining such maximum single risk.

(c) It shall have collected a premium upon each application, which premiums shall be held in cash or securities in which insurance companies are authorized to invest, and shall be equal, in case of fire or steam boiler insurance, to not less than twice the maximum single risk assumed, subject to one fire or one loss, nor less than ten thousand dollars, and in any other kind of insurance to not less than five times the maximum single risk assumed, and in case of workman's compensation insurance to not less than fifty thousand dollars.

(d) For the purpose of transacting employers' liability and workmen's compensation insurance, the applications shall cover not less than one thousand five hundred employees, each such employee being considered a separate risk for determining the maximum single risk.

Civ. C. '22, § 4207; 1920, XXXI, 910; 1926, XXXIV, 1028.

(8095) Political Subdivisions of State and Corporations May Become Members.—Any political subdivision of this state or other public or private corporation, board, estate or person, association in this state or elsewhere, may make applications to enter into agreements for and hold policies in any such mutual insurance company. Any officer, stockholder, trustee, or legal representative of any such political subdivision, corporation, board, association, estate or person may be recognized as acting for or on its behalf for the purpose of such membership, but shall not be personally liable upon such contract of insurance by reason of acting in such representative capacity. The right of any such political subdivision or other corporations, organized under the laws of this State, to participate as a member of any such mutual insurance company is hereby declared to be incidental to the purpose for which political subdivision or other corporation is organized and as such granted as the rights and powers expressly conferred.

Civ. C. '22, § 4208; 1915, XXIX, 96; 1920, XXXI, 910.

(8096) Voting Power to Be Regulated by By-Laws.—Every member of the company shall be entitled to one vote, or to a number of votes based upon the insurance in force, the number of policies held, or the amount of premiums paid, as may be provided in the by-laws.

Civ. C. '22, § 4209; 1920, XXXI, 910.

(8097) **Maximum Premiums.**—The maximum premium payable by any member shall be expressed in the policy or in the application for the insurance. Such maximum premium may be a cash premium and an additional contingent premium not less than the cash premium, or may be solely a cash premium with no contingent premium or liability to assessment in any event. No policy shall be issued for a cash premium without an additional contingent premium unless the company has a surplus which is not less in amount than the capital stock required of domestic stock insurance companies transacting the same kind of insurance.

Civ. C. '22, § 4210; 1920, XXXI, 910.

(8098) **Investments of Assets.**—No such company shall invest any of its assets except in accordance with the laws of this State relating to the investment of the assets of domestic stock insurance companies transacting the same kind of insurance.

Civ. C. '22, § 4211; 1920, XXXI, 910.

(8099) **Reserves.**—Such company shall maintain unearned premium and other reserves separately for each kind of insurance, upon the same basis as that required of domestic stock insurance companies transacting the same kind of insurance: *Provided,* That any reserve for loss or claims based upon the premium income shall be computed upon the net premium income after deducting any so-called dividend or premium returned or credited to the member.

Civ. C. '22, § 4212; 1920, XXXI, 910.

(8100) **Assessments.**—Such company not possessed of assets at least equal to the unearned premium reserve and other liabilities shall make an assessment to provide for such deficiency upon only such members as are liable in proportion to their several liabilities as expressed in their policies. Each such member shall be liable only on account of losses and expenses incurred while his policy was in force and shall not be liable in any event unless he is notified of such assessment within one year after the termination of such policy: *Provided,* The insurance commissioner may, by written order, relieve the company from assessment or other proceeding to restore such assets during the time fixed in such order: *And provided,* That any domestic company which shall be deficient in providing the unearned

premium reserve required hereby, may, notwithstanding such deficiency, come under this article on the condition that it shall each year thereafter reduce such deficiency at least fifteen per cent. of the original amount thereof, and in such case it may increase its assessments accordingly.

Civ. C. '22, § 4213; 1920, XXXI, 910.

(8101) Advances.—Any director, officer or member of any such company, or any other person, may advance to such company any sum or sums of money necessary for the purpose of its business or to enable it to comply with any of the requirements of the law, and such moneys and such interest thereon as may have been agreed upon, not exceeding ten per cent. per annum, shall be payable only out of the surplus remaining after providing for all reserves and other liabilities, and shall not otherwise be a libility or claim against the company or any of its assets. No commission or promotion expenses shall be paid in connection with the advance of any such money to the company, and the amount of such advance shall be reported in each annual statement.

Civ. C. '22, § 4214; 1920, XXXI, 910.

(8102) Policies—Execution—Form.—Any law requiring that policies be countersigned and delivered through a resident agent shall not apply to any policy of such mutual company on which no commission shall be paid to any local agent. Such mutual company may insert in any form of policy prescribed by the law of this State any provisions or conditions required by its plan of insurance which are not inconsistent or in conflict with any law of this State. Such policy, in lieu of conforming to the language and form prescribed by such law, may conform thereto in substance if such policy includes a provision or endorsement reciting that the policy shall be construed as if in the language and form prescribed by such law, and a copy of such policy and endorsement, if any, shall have been first filed with and shall not have been disapproved by the insurance commissioner.

Civ. C. '22, § 4215; 1920, XXXI, 910.

(8103) Admission of Foreign Mutual Companies.—(1) Any mutual company organized outside of this State and authorized to transact the business of insurance on mutual plan in any

state, district or territory shall be admitted and licensed subject to the approval of the insurance commissioner as aforesaid, to transact the kinds of insurance authorized by its charter or articles to the extent and with the powers and privileges specified in this article and when it shall be solvent under this article and shall have complied with the following requirements:

(a) Filed with the insurance commissioner a certified copy of its charter or articles and a certificate of the supervising insurance official of the State, district or territory in which it is incorporated that it is there organized and authorized to do such business as it desires to transact in this State.

(b) Filed with the insurance commissioner a copy of its by-laws certified to by its secretary.

(c) Appointed the insurance commissioner its agent for the service of process in any action, suit or proceeding in any court of this State, which authority shall continue as long as any liability shall remain outstanding in this State.

(d) Filed a financial statement under oath, in such form as the insurance commissioner may require, and have complied with other provisions of the law applicable to the filing of papers and furnishing information by stock companies on application for authority to transact the same kinds of insurance.

(e) If organized without the United States, make and maintain the deposit, if any, required of a like mutual insurance company formed in this state for transacting the same kinds of insurance in the country or state in which such foreign company is domiciled.

(f) Its name shall not be so similar to any name already in use by any such existing corporation, company or association organized or licensed in this State as to be confusing or misleading.

(g) It shall have established an office within the State of South Carolina.

(2) Upon compliance by any such company organized outside of this State with the provisions of this section, such company shall be licensed and authorized to transact business in this State subject to the provisions of the following section, and to the annual renewal of its license at the time provided for the renewal of license of stock insurance companies transacting the same kind of insurance.

Civ. C. '22, § 4216; 1915, XXIX, 96; 1920, XXXI, 910.

(8104) Subject to State Laws.—Every mutual insurance company, whether organized within or without this State, shall be subject to all the provisions of law relating to policy forms, the supervision of rates, prohibition of discrimination and rebates, annual reports, reserves, taxes and fees, and shall make its annual report in such form and submit to such examinations and furnish such information as may be required by the insurance commissioner. As far as practicable such examination of mutual insurance companies organized outside of this State shall be made in cooperation with the insurance commissioner.

Civ. C. '22, § 4217; 1920, XXXI, 910.

(8105) Other Insurance Laws Not to Apply.—Except as provided herein, or as such companies may be hereafter expressly designated in any other law, insurance companies organized or admitted to do business in this state under this article shall not be subject to any other insurance law of this State.

Civ. C. '22, § 4218; 1920, XXXI, 910.

(8106) Reinsurance.—Any such mutual insurance company organized or admitted to transact insurance in this State may reinsure any part or all of any risk or risks in any insurance company or insurer licensed in any state of the United States or in the District of Columbia: *Provided*, That no such reinsurance shall be effected with any company or insurer disapproved therefor by written order of the insurance commissioner filed in his office.

Civ. C. '22, § 4219; 1920, XXXI, 910.

(8107) Annual Report—License Fee.—The president or vice president, together with the secretary of each corporation organized to do business under this article, shall annually, on or before the first day of April of each year, prepare under oath, if required, and file with the insurance commissioner a full, true and satisfactory statement of the condition of the company on the thirty-first day of December of the preceding year, in such form as shall be prescribed by said insurance commissioner, and upon the payment of an annual insurance department license fee of $25.00, the insurance commissioner shall issue license for the ensuing year.

Civ. C. '22, § 4220; 1917, XXX, 55.

(8108) Violation a Misdemeanor—Penalty.—Any person or corporation violating the provisions of this article shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars, and the insurance commissioner shall have power to revoke the license of any such person or corporation.

Civ. C. '22, § 4221; 1920, XXXI, 910.

(8109) Extent of Repeal—Compliance With Article.—All laws or parts of laws in conflict with the provisions of this article, so far as companies organized or admitted under this article are concerned, are repealed, but no such repeal and nothing in this article shall apply to or affect any company or association of this State or any other state now doing business or to any law under which any such company or association is organized or doing business. Any such company or association may, however, by resolution of its board of directors duly approved by a majority vote of the members at a meeting specially called for that purpose, and duly certified to by the president and secretary and filed with and approved by the insurance commissioner, elect to adopt and become subject to the provisions of this article, in lieu of any article or acts theretofore governing such company or association. Any company or association so electing and fully complying with this article may thereafter effect such kinds of insurance as authorized by this article and specified in its certificate of incorporation then in force, or as then or thereafter amended, together with such additional kinds of insurance as are specified in such resolution and authorized by this article.

Civ. C. '22, § 4222; 1920, XXXI, 910.

(8110) No Repeal of Laws as to Domestic Mutual Insurance Companies.—This article shall not be construed to repeal any existing laws relating to domestic mutual insurance companies, and all such companies now, or that may hereafter be, organized under existing laws shall in nowise be affected by the provisions of this article.

Civ. C. '22, § 4223; 1920, XXXI, 910.

Sundry

(8136) Provision to License and Supervise Foreign Companies Lending Money on Mortgages, Etc.—Foreign companies pro-

posing to do exclusively a business of lending money on real estate mortgages, or collateral secured by real estate mortgages, may be licensed to do business in this State on the following terms: Each company shall file with the insurance commissioner a satisfactory statement of condition, and such other information as he shall require; a copy of its charter and amendments thereto; a certificate of compliance with the laws of its home state, and the appoinment of the insurance commissioner of South Carolina as its attorney to accept service. It shall pay an annual department license fee of $25.00 and shall not be subject to any other license fees, unless this class of companies is specifically mentioned.

Civ. C. '22, § 4249; 1913, XXVIII, 145.

(2557) Licenses Required of Detectives, Detective Agencies, Investigating Bureaus, etc.

(1) **Fee for Agent.**—All detectives, detective agencies, investigating bureaus, and other like organizations, operating in this State for hire, before engaging in such business, after thirty days from the passage of this section, shall file with the insurance commissioner of the State an application for a license to conduct such business; and each agent shall be licensed upon the payment of a flat fee of twenty-five ($25.00) dollars if found to be reputable and competent in the judgment of the commissioner. Such license shall cover a period of one year from its date, and without such license it shall be unlawful for them or any of them to carry on their accustomed business. Subsequent licenses may be granted upon the same conditions and upon the payment of a like fee for the privilege of carrying on such business, as required for the initial license.

(2) **Penalty for Violation.**—Any person, firm, or corporation violating the terms of this section shall be deemed guilty of a misdemeanor, and upon conviction shall be sentenced to pay a fine of not less than two hundred ($200.00) dollars nor more than one thousand ($1,000.00) dollars, or suffer imprisonment of not less than thirty (30) days, nor more than six (6) months, in the discretion of the trial judge.

1931, XXXVII, 294.

(6738) Interest Regulated.—No greater interest than seven (7) per cent. per annum shall be charged, taken, agreed upon or

allowed upon any contract arising in this State for the hiring, lending or use of money or other commodity, either by way of straight interest, discount or otherwise, except upon written contracts wherein, by express agreement, a rate of interest not exceeding eight per cent. may be charged: *Provided,* That industrial banks which make personal loans on the monthly payment plan, and which require no collateral except endorsements, and which are incorporated in South Carolina, and which do not receive deposits, are hereby allowed to make interest charges as follows: On all loans of not less than ten ($10.00) dollars and not in excess of two hundred ($200.00) dollars, an interest charge of one and one-half (1½) per cent. per month: *Provided, further,* That in case of the failure of the borrower to make the monthly payment within five (5) days of the due date thereof, the bank may impose a fine of ten (10%) per cent. of the payment due, as a penalty for the borrower's default: *Provided,* That where any insurance company, as a condition for a loan by such company, of money upon mortgage or other security, shall require that the borrower insure either his life or that of another, or his property, with such company and assign to such company, or cause to be assigned to it, any policy of insurance as security for such loan, or agree to pay premiums thereon during the continuance of such loans, whether such premiums be paid annually or in installments, such premiums shall not be considered as interest on such loan within the meaning of this section, nor shall any loan be rendered usurious by reason of any such requirements where the rate of interest charged for the loan does not exceed the rate above fixed, and where the premiums charged for the insurance do not exceed premiums charged to other persons under like circumstances and conditions who do not obtain loans.

Civ. C. '22, § 3638; Civ. C. '12, § 2518; Civ. C. '02, § 1662; G. S. 1288; R. S. 1390; 1877, XVI, 325; 1882, XVIII, 35; 1889, XX, 376; 1898, XXII, 749; 1912, XXVII, 573; 1931, XXXVII, 316.

(7749) Classes of Directors for Certain Corporations.—Any corporation of this State, organized for the purpose of doing a general banking, or insurance, or shipbuilding and trust company business, or trust company business alone, may, by resolution adopted at the meeting of the subscribers for organization, or its by-laws adopted after such organization, provide for the election of two classes of directors, to wit, active and advisory, and

may prescribe distinct duties to be devolved upon each of said classes; and may elect such number of directors for each of said classes as may be deemed advisable, and that it may, from time to time, alter its by-laws with reference thereto.

Civ. C. '22, § 4323; Civ. C. '12, § 2854; 1902, XXIII, 1038; 1906, XXV, 54.

(9049) (As amended by Act No. 879 of 1934) Savings Banks, Banks, Trust and Insurance Companies, Judges of Probate, Executors, Administrators, Guardians and Trustees May Invest in Farm Loan Bonds—Accountability for Interest.—Any savings bank, banking institution, trust company or insurance company, organized under the laws of this State, and any judge of probate or person acting as executor, administrator, guardian or trustee, unless it is otherwise provided in the instrument creating the trust, may invest in or lend money on, the security of Federal Farm Loan Bonds, issued by any Federal Land Bank or Joint Land Bank organized pursuant to an Act of Congress entitled "An Act to provide capital for agricultural development, create standard forms of investment, based upon farm mortgage, to equalize rates of interest upon farm loans, to furnish a market for United States Bonds, to create government depositories and financial agents for the United States, and for other purposes", approved July seventeenth, one thousand nine hundred and sixteen, and Acts amendatory and supplementary thereto or on the security of bonds issued by the Federal Farm Mortgage Corporation pursuant to the provisions of an Act of Congress known as the "Federal Farm Mortgage Corporation Act": *Provided*, That any savings bank, banking institution, trust company, or insurance company, organized under the laws of this State, or any judge of probate or person acting as executor, administrator, guardian or trustee, shall not account for a greater rate of interest that the amount actually received on said invesment.

Civ. C. '22, § 5461; 1918, XXX, 763; 1919, XXXI, 133.

ACT NO. 708 OF 1934. SECTION 1—(IN PART.)

It shall be lawful for the State of South Carolina, and any of its departments, institutions and agencies, any political subdivision or sub-divisions of the State, any district thereof, any county therein or political sub-division thereof, and any cities,

towns or municipalities therein, or any political or public corporation of the State or of the United States, or for any insurance company, building and loan association, or for any bank, trust company or other financial institution, operating or doing business in the State of South Carolina, or under the laws of this State or the United States, any national bank or receiver of any bank, trust company, building and loan association or other financial institution operating under the laws of this State or of the United States, or for any executor, administrator, committee, guardian, conservator, trustee or other fiduciary, to invest their funds or the moneys in their custody or possession eligible for investment, in bonds of Home Owners' Loan Corporation, a corporation created or organized pursuant to an Act of Congress of the United States of America known as "Home Owners' Loan Act of 1933" and/or to exchange for bonds issued by said corporation, home mortgages and other obligations and liens secured by real estate, including the interest of a vendor under a purchase money mortgage or contract, and any other obligation or claims for which homes or other real estate may be subjected to payment, whether authorized heretofore or not.

Approved February 22, 1934.

TIME AND PLACE FOR BRINGING SUITS

Statute of Limitation—within 6 years.

388 Code of 1932, Vol. I, Subsection 7.

(7) Actions may be brought in any of the courts of this State properly having jurisdiction thereof on any policies of insurance, either fire or life, whereby any person or property, resident or situate in this State, may be or have been insured, or for or on account of any loss arising thereunder, within six years from the date of such loss, or from the accrual of the cause of action under said policy, any clause or condition in the said policies or limitations therein contained to the contrary notwithstanding.

Civ. P. '22, § 331; Civ. P. '12, § 137; Civ. P. '02, § 112; 1870, XIV, 114; 1891, XX, 1042.

(7997) Suit Against Insurance Companies in County Where Loss Occurs—Changing Place of Trial.—All suits brought against any and all fire, life, or other insurance companies doing

business in this State, may be brought in the county where the loss occurs: *Provided, however,* That nothing herein contained shall be so construed as to prevent the Court from changing the place of trial for any of the causes provided for in the Code of Civil Procedure.

Civ. C. '22, § 4111; Civ. C. '12, § 2732; 1906, XXV, 111.

(424) Suits by Mutual Life and Fire Insurance Companies Against Members.—All suits instituted by mutual life insurance companies and mutual fire insurance companies heretofore formed in this State or hereafter formed in this State, against a member or former member of said companies, or any receiver of said companies against any member or former member of any such companies, shall be brought in the county in which such member resides.

Civ. P. '22, § 380; 1912, XXVII, 776.

(425) When Such Suit to Be Removed.—Wherever any suit or proceeding has been brought, either as an independent suit or any ancillary proceeding to a receivership suit, in any county other than the county where the member or former member resides, the court where such proceeding is pending shall, upon motion of such member or former member sued, on affidavit showing that he resides in a different county, remove such suit or proceeding to the county where such member or former member resides for trial.

Civ. P. '22, § 381; 1912, XXVII, 776.

(426) Changing Place of Trial.—The court may change the place of trial in the following cases:

(1) When the county designated for that purpose in the complaint is not the proper county.

(2) When there is reason to believe that an impartial trial cannot be had therein.

(3) When the convenience of witnesses and the ends of justice would be promoted by the change.

When the place of trial is changed, all other proceedings shall be had in the county to which the place of trial is changed, unless otherwise provided by the consent of the parties, in writing, duly filed, or order of the court; and the papers shall be filed or transferred accordingly.

Civ. P. '22, § 382; Civ. P. '12, § 176; Civ. P. '02, § 147; 1870, XIV, 149; 1879, XVII, 14.

RETALIATORY LAW

Act No. 793 of 1934.

Whenever the laws of any other State of the United States shall require of insurance companies chartered by this State, and having agencies in such other State, or the agents thereof, any deposit of securities in such State for the protection of policyholders or otherwise, or any payment of penalties, certificates of authority, license fees, or otherwise, greater than the amount required for such purposes from similar companies of the other States by the then existing laws of this State, then and in every such case, all such similar companies of such States establishing or having theretofore established an agency or agencies in this State shall be and are hereby required to make the same deposit for a like purpose with the insurance commissioner of this State, and to pay to said commissioner, for penalties, certificates of authority, license fees, filing fee, or any other fees an amount equal to the amount of such charges imposed by the laws of such State upon companies of this State and the agencies thereof.

Approved March 19, 1934, by the Governor.

Note—A Concurrent Resolution was passed subsequent to the approval of the Act by the Governor, making the Act effective April 1st, 1935.

PART II

Criminal Code

PART II.

Criminal Code.

VIOLATIONS OF INSURANCE LAWS

(1909) **Misdemeanor to Receive Premium for Insurance in Insolvent Company.**—Any director or officer of any insurance company or association, of whatever kind, who shall wilfully receive any premium or assessment on behalf of said company or association, knowing at the time of receipt of said premium or assessment said company or association to be insolvent according to the laws of its home State, without notice of the same to the party paying the premium or assessment, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined or imprisoned, in the discretion of the court. Or any agent, physician or other person who shall insure or knowingly cause to be insured or reinstated in membership any infirm or unhealthy person, not at the time in insurable condition, with intent to defraud, shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined or imprisoned, in the discretion of the court.

Cr. C. '22, § 889; Cr. C. '12, § 879; 1910, XXVI, 553.

(1910) **Misdemeanor to Present False Claim or Make False Statement.**—Any agent, collector, physician or other person who shall cause to be presented to any insurance company licensed to do business in this State a false claim for payment, knowing the same to be false, or any agent or collector who shall represent any such company or collect or do business without the authority of the comany or secure cash advances by false statements, or shall fail to turn over when required, or satisfactorily account for all collections of such company, licensed to do business in this State, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined or imprisoned, in the discretion of the court.

Cr. C. '22, § 890; Cr. C. '12, § 880; 1910, XXVI, 553.

(1911) **Persons Deemed Agents—Misdemeanor to Procure Premium by Misrepresentation.**—A person who acts for another than himself in negotiating a contract of insurance by an insur-

ance company or association, for the purpose of receiving remuneration therefor, shall be held to be the company's or association's agent, whatever conditions or stipulations may be contained in the policy contract. Any such person who knowingly procures by fradulent representation, payments or any obligations for payment of a premium of insurance, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine or imprisonment, in the discretion of the court.

Cr. C. '22, § 891; Cr. C. '12, § 881; 1910, XXVI, 553.

(1912) Foreign Insurance Companies Doing Business Without a License—Countersigning Policies for Unlicensed Companies.—Any foreign insurance company or association of any class whatsoever doing business in this State without a license so to do, shall be subject to a fine of five hundred dollars for each offense, to be recovered by suit brought by the Attorney General or a circuit solicitor in the name of the State. Any person countersigning certificates or policies or making entries or notices of insurance under open policies or other instruments of insurance, or acting for or representing an insurance company not licensed to do business in this State, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than one hundred dollars or imprisoned, in the discretion of the court. Any company violating any of the insurance laws of this State, for which no penalty is otherwise provided, shall be subject to a fine not to exceed five hundred dollars, to be recovered by suit brought by the Attorney General or a circuit solicitor, in the name of the State.

Cr. C. '22, § 892; Cr. C. '12, § 882; 1910, XXVI, 553.

(1913) Misdemeanor to Solicit for Association Not Duly Authorized to Do Business.—Any person who shall solicit membership for, or in any manner assist in procuring membership in, any fraternal benefit association not authorized to do business in this State, or who shall solicit membership for, or in any manner assist in procuring membership in, any such association not authorized as herein provided to do business as herein defined in this State, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not more than one hundred dollars or imprisonment not longer than thirty days.

Cr. C. '22, § 893; Cr. C. '12, § 885; 1910, XXVI, 561.

(1914) Investigation as to Fires, Etc.—Neglect of Duty—Appeal to Insurance Commissioner.—When the insurance commissioner or his deputy or the chief of the fire department or chief of police or intendant (where there is no chief of fire department), or county sheriff, shall find in any building or upon any premises combustible material or conditions dangerous to the safety of such building or premises, they shall order the same to be removed or remedied. Any such order shall forthwith be complied with by the owner or occupant of said building or premises. Any one failing to comply with the orders of any of the above named officers shall be punished by a fine of not less than ten dollars nor more than fifty dollars for each day's neglect: *Provided, however,* That if said owner or occupant shall deem himself aggrieved by such order he may, within twenty-four hours, appeal to the insurance commissioner and the cause of the complaint shall at once be investigated by the direction of the latter, and unless by his authority the order of the fire chief or chief of police is revoked such order shall remain in full force.

Cr. C. '22, § 894; Cr. C. '12, § 888; 1904, XXIV, 474.

(1915) Misdemeanor for Insurance Companies or Agents to Circulate False Information.—No life insurance company doing business in this State, and no officer, director or agent thereof, shall issue or circulate, or cause or permit to be issued or circulated, any estimate, illustration, circular or statement of any sort misrepresenting the terms of any policy issued by it, or the benefits or advantages promised thereby, or the dividends or shares of surplus to be received thereon, or shall use any name or title of any policy or class of policies misrepresenting the true nature thereof. Violation of this section by an agent or officer of an insurance company shall be a misdemeanor and punishable by a fine of five hundred dollars or imprisonment in the county jail for sixty (60) days, or by both such fine and imprisonment; and if a company violates or participates in the violation of this section, such company shall have its certificate of authority to do business in this State suspended for a period of not exceeding six months for each offense.

Cr. C. '22, § 895; Cr. C. '12, § 891; 1908, XXV, 1110.

(1916) False Statements of Claims.—Any person who shall wilfully make a false statement of any material fact or thing

in a sworn statement as to the death or disability of a certificate holder in any such fraternal benefit association for the purpose of procuring payment of a benefit named in the certificate of such holder, and any person who shall wilfully make any false statement in any verified report or declaration under oath required or authorized by Article 3 of Chapter 157, shall be guilty of perjury, and shall be proceeded against and punished as provided by the statutes of this State in relation to the crime of perjury.

Cr. C. '22, § 896; Cr. C. '12, § 884; 1910, XXVI, 561.

(1917) False Statement in Reference to Application to Fraternal Benefit Association.—Any person, officer, member or examining physician or any fraternal benefit association authorized to do business under Article 3, Chapter 157, who shall knowingly or wilfully make any false or fraudulent statement or representation in or with reference to any application for membership, or for the purpose of obtaining money from or benefit in any association transacting business under Article 3, Chapter 157, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or imprisonment in the county jail for not less than thirty days nor more than one year, or both, in the discretion of the Court.

Cr. C. '22, § 897; Cr. C. '12, § 883; 1910, XXVI, 561.

(1918) Violation of Civil Code, as to Fraternal Benefit Associations.—Any fraternal benefit association or any officer, agent or employee thereof neglecting or refusing to comply with, or violating any of the provisions of Article 3 of Chapter 157, the penalty for which neglect, refusal or violation is not specified in the three preceding sections, shall be fined not exceeding one hundred dollars upon conviction thereof or may be imprisoned not more than thirty days.

Cr. C. '22, § 898; Cr. C. '12, § 886; 1910, XXVI, 561.

(1919) Misdemeanor to Misrepresent Contracts.—No bond, investment, dividend, debenture, registry, guaranty, loan or fidelity, or other company required to be licensed by the insurance commissioner, and no officer or director or agent thereof, shall issue or circulate, or cause or permit to be issued or circulated, any estimate, illustration, circular or statement of any sort misrepresenting the terms of any policy or contract issued

by it, or the benefits or advantages promised thereby, or the dividends or shares of surplus to be received thereon, or shall use any name or title or any policy or contract, or class of policies or contracts misrepresenting the true nature thereof. Violation of this section or of Article 6 of Chapter 157, by any agent or officer of a company, or by any person representing himself to be an agent or officer, shall be a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or imprisonment for not less than thirty days and not more than six months; and if a company violates or participates in the violation of this section or of Article 6 of Chapter 157 such company shall have its certificate of authority to do business in this State suspended or revoked. No such company shall make or permit any distinction in favor of individuals between policyholders or contract holders of the same class, in the amount of the payment of premiums or rates charged for policies or contracts, or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of the contracts it makes. Nor shall any company or agent thereof make any contract or agreement as to such contract other than as plainly expressed in the policy issued thereon.

Cr. C. '22, § 899; Cr. C. '12, § 887; 1910, XXVI, 547.

(1920) Obstructing the Insurance Commissioner.—Any one who violates the provisions of Article 1 of Chapter 157, or any one who interferes with the insurance commissioner in the performance of his lawful duties, or who prevents the same, or refuses to comply with or obey any order issued by him in accordance with law, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than one hundred dollars, or imprisoned not more than thirty days: *Provided,* That nothing herein contained shall be construed to prevent such person as is here referred to testing the validity of the order or action of the commissioner in a court of competent jurisdiction.

Cr. C. '22, § 900; Cr. C. § 889; 1909, XXVI, 11.

(1921) No Distinction to Be Made Between Individuals by Life Insurance Companies—Rebates.—No insurance company doing business in this State shall make or permit any distinction in favor of individuals between insurants (the insured) of the same class and equal expectation of life in the amount of

the payment of premiums or rates charged for policies of life or endowment insurance, or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of the contracts it makes. Nor shall any such company, or agent thereof, make any contract of insurance or agreement as to such contract other than is (as) plainly expressed in the policy issued thereon; nor shall any such company or any officer, agent, solicitor or representative thereof pay, allow or give or offer to pay, allow or give, directly or indirectly, as inducement to insurance, any rebate or premium payable on the policy, or any special favor or advantage in the dividends or other benefits to accrue thereon, or any paid employment or contract for services of any kind, or any valuable consideration or inducement whatever not specified in the policy contract of insurance; nor give, sell or purchase, or offer to give, sell or purchase, as inducement to insurance or in connection therewith, any stocks, bonds, or other securities of any insurance company or other corporation, association or partnership, or any dividends or profits to accrue thereon, or anything of value whatever not specified in the policy. Every officer or agent of an insurance company doing business in this State, who shall violate any of the provisions of this section, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined in a sum not less than one hundred ($100) dollars nor exceeding five hundred ($500) dollars, or imprisoned in the county jail for not less than thitry (30) days, nor more than ninety (90) days, or both, in the discretion of the court, and shall pay the costs of the prosecution. It shall be the duty of the insurance commissioner, upon being satisfied that any such insurance company, or any agent thereof, has violated any of the provisions of this section to revoke the certificate of authority of the company or agent so offending.

Cr. C. '22, § 901; Cr. C. '12, § 892; 1908, XXV, 1110.

(1922) Certain Inducements Which Must Not Be Offered to Procure Policyholders.—No insurance company shall issue in this State, nor permit its agents, officers or employees to issue in this State, agency company stock or other stock or securities, or any special or advisory board or other contract of any kind, promising returns and profits as an inducement to insurance; and no life insurance company shall be authorized to do business in this State which issues, or permits its agents, officers or

employees to issue, in the State of South Carolina or any other State or Territory, agency company stock, or other stock or securities or any special or advisory board or other contract of any kind promising returns and profits as an inducement to insurance; and no corporation or stock company, acting as agent of a life insurance company, nor any of its agents, officers or employees, shall be permitted to agree, sell, offer to sell or give, or offer to give, directly or indirectly, in any manner whatsoever, any share of stock, securities, bonds or agreement of any form or nature, promising returns and profits as an inducement to insurance or in connection therewith: *Provided*, That nothing herein contained shall impair or affect in any manner any such contracts issued or made as an inducement to insurance prior to the enactment hereof, or prevent the payment of the dividends or returns herein stipulated to be paid. It shall be the duty of the insurance commissioner, upon being satisfied that any such insurance company, or any agent thereof, has violated any of the provisions of this section, to revoke the certificate of authority of the company or agent so offending.

Cr. C. '22, § 902; Cr. C. '12, § 893; 1908, XXV, 1110.

CRIMES OF BURNING

(1132) Arson Defined.—Any person who wilfully and maliciously sets fire to or burns or causes to be burned or who aids, counsels, or procures the burning of any dwelling house, or any kitchen, shop, barn, stable or other outhouse that is parcel thereof, or belonging to or adjoining thereto, whether the property of himself or of another, shall be guilty of arson and upon conviction thereof be sentenced to the penitentiary for not less than two or more than twenty years .

1928, XXXV, 1226.

(1133) Penalty for Burning Building Not Subject of Arson.—Any person who wilfully and maliciously sets fire to or burns or causes to be burned, or who aids, counsels or procures the burning of any barn, stable, garage, or other building, whether the property of himself or of another, not a parcel of a dwelling house; or any shop, storehouse, warehouse, factory, mill or other building, whether the property of himself or of another; or any church, meeting house, court house, work house, school, jail or other public building or public bridge, shall, upon con-

viction thereof, be sentenced to the penitentiary for not less than one nor more than ten years.
1928, XXXV, 1226.

(1134) Burning of Crops, Personal Property, Etc.—Any person who wilfully and maliciously sets fire to or burns or causes to be burned or who aids, counsels or procures the burning of any barracks, cock, crib, rick, or stack of hay, corn, wheat, oats, barley or other grain or vegetable product of any kind; or any field of standing hay or grain of any kind; or any pile of coal, wood or other fuel; or any pile of planks, boards, posts, rails or other lumber; or any street car, railway car, ship, boat or other water craft, automobile or other motor vehicle; or any other personal property not herein specifically named (such property being of the value of twenty-five dollars and the property of another person); shall upon conviction thereof be sentenced to the penitentiary for not less than one or more than three years.
1928, XXXV, 1226.

(1135) Burning to Defraud Insurer.—Any person who wilfully and with intent to injure or defraud the insurer sets fire to or burns or causes to be burned, or who aids, counsels or procures the burning of any goods, wares, merchandise or other chattels or personal property of any kind, whether the property of himself or of another, which shall at the time be insured by any person or corporation against loss or damage by fire shall upon conviction thereof be sentenced to the penitentiary for not less than one nor more than five years.
1928, XXXV, 1226.

(1136) Attempt to Burn.—Any person who wilfully and maliciously attempts to set fire to or attempt to burn or to aid, counsel or procure the burning of any of the buildings or property mentioned in the foregoing sections, or who commits any act preliminary thereto or in furtherance thereof, shall upon conviction thereof be sentenced to the penitentiary for not less than one nor more than two years or fined not to exceed one thousand dollars.
1928, XXXV, 1226.

(1137) Placing of Combustibles, Etc.—The placing or distributing of any inflammable, explosive or combustible materials or substance, or any device in any building or property men-

tioned in the foregoing sections in an arrangement or preparation with intent to eventually wilfully and maliciously set fire to or burn same, or to procure the setting fire to or burning of same shall for the purposes of the foregoing sections constitute an attempt to burn such building or property.

1928, XXXV, 1226.

(1140) Dwelling House Defined in Case of Burglary and Arson.—With respect to the crimes of burglary and arson, and to all criminal offenses which are constituted or aggravated by being committed in a dwelling house, any house, outhouse, apartment, building, erection, shed, or box, in which there sleeps a proprietor, tenant, watchman, clerk, laborer, or person who lodges there with a view to the protection of property, shall be deemed a dwelling house, and of such a dwelling house, or of any other dwelling house, all houses, outhouses, buildings, sheds, and erections which are within two hundred yards of it, and are appurtenant to it, or to the same establishment of which it is an appurtenance, shall be deemed parcels.

Cr. C. '22, § 34; Cr. C. '12, § 179; Cr. C. '02, § 146; G. S. 2483; R. S. 143; 1866, XIII, 405.

(1162) Firing Turpentine Farms.—It shall be unlawful for any person to set fire to any woods so near to any turpentine farm in this State as to injure or burn any such farm; and whoever shall wilfully and maliciously set fire to any woods at any time, whereby such farm or farms are injured or burned, shall be adjudged guilty of a felony, and liable to be punished at hard labor in the penitentiary for the period of one year, or fined in the sum of five hundred dollars.

Cr. C. '22, § 55; Cr. C. '12, § 189; Cr. C. '02, § 155; G. S. 2494; R. S. 151; 1876, XVI, 61.

(1163) Punishment for Burning Ricks of Hay, Kilns, Etc., in Night Time.—Whoever shall in the night time maliciously, unlawfully and wilfully burn, or cause to be burned or destroyed, any ricks or stacks of hay, straw, or grain or kilns, shall, for every such offense, be punished by hard labor in the penitentiary for life or for a period not less than two years, according to the aggravation of the offense.

Cr. C. '22, § 56; Cr. C. '12, § 190; Cr. C. '02, § 157; G. S. 2484; R. S. 154; 22 and 33 C. 2, c. 7; 1712, II, 521; 1869, XIV, 175; 1887, XIX, 793.

(1179) Burning Stacks of Corn, Etc., in Daytime.—Whoever shall maliciously, unlawfully, and wilfully burn, or caused to be burned or destroyed, any ricks or stacks of corn, or grain, or kilns, in the daytime, shall be adjudged guilty of a misdemeanor, and liable to be fined and imprisoned, in the discretion of the court, for said offense.

Cr. C. '22, § 69; Cr. C. '12, § 213; Cr. C. '02; § 158; G. S. 2495; R. S. 155; 1828, VI, 367.

(1180) Burning Carts, Wood, Etc.—Whoever shall maliciously, wilfully, and unlawfully burn, or cause to be burned, any wain, cart, laden or to be laden, with coals or any other goods or merchandise, of any other person or persons, or maliciously, wilfully and unlawfully do burn, or cause to be burned, any heap of wood of any other person, prepared, cut, and felled, or to be prepared, cut or felled, for making of coals, billets, or talwood, shall not only lose and forfeit unto the party grieved treble damages for such offense, to be recovered by action, but also shall be punished by fine and imprisonment, in the discretion of the court.

Cr. C. '22, § 70; Cr. C. '12, § 214; Cr. C. '02, § 159; G. S. 2496; R. S. 156.

(1181) Carrying Fire on Lands of Another, Without Permit.— It shall be unlawful for any person to carry a lighted torch, chunk, or coals of fire, in or under any mill or wooden building or over and across any of the enclosed or unenclosed lands of another person at any time without the special permit of the owner of such lands, mill or wooden building, whether any damage results therefrom or not. Any person, upon conviction of a violation of the provisions of this section, shall be deemed guilty of a misdemeanor, and shall be subject to imprisonment in the county jail for a term not to exceed thirty days, or to a fine not to exceed one hundred dollars.

Cr. C. '22, § 71; Cr. C. '12, § 216; Cr. C. '02, § 161; R. S. 158; 1891, XX, 1045.

(1182) Burning, Cutting, Etc., Untenanted or Unfinished Buildings—Injury Done by Tenants—Punishment.—Whoever shall maliciously, unlawfully and wilfully burn, or cause to be burned, cut, or cause to be cut or destroyed, any untenanted or unfinished house or building or any frame, or frames of timber, of any other person, made and prepared, hereafter to be made or prepared, for or towards the making of any house or houses,

so that the same shall not be suitable for the purposes for which it was prepared; and any tenant or tenants, who shall wilfully and maliciously cut, deface, mutilate, burn, destroy or otherwise injure any dwelling house, outhouse, erection, building or crops then in the possession of such tenant or tenants, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine or imprisonment, or both, in the discretion of the court.

Cr. C. '22, § 72; Cr. C. '12, § 217; Cr. C. '02; § 162; G. S. 2845; R. S. 159; 27 H. 8, c. 6; 1712, II, 478; 1887, XIX, 794; 1911, XXVII, 129.

(1208) Punishment for Negligently Firing Grass, Etc.—Whoever shall wilfully, maliciously or negligently set fire to or burn any grass, brush or other combustible matter, so as thereby any woods, fields, fences or marshes of any other person or persons be set on fire, or cause the same to be done, or be thereunto aiding or assisting, shall, upon conviction thereof, be punished by a fine of not less than twenty-five nor more than five hundred dollars, or imprisonment of not more than one year in the county jail, and shall, moreover, be liable to the action of any person or persons who may have sustained damage thereby: *Provided,* That no person or persons shall be prevented from firing woods, fields, lands or marshes within his own bounds, so that he suffer not the fire to get without the bounds of his lands and injure the woods, fences or grass of his neighbor or neighbors.

Cr. C. '22, § 96; Cr. C. '12, § 215; Cr. C. '02, § 160; G. S. 2497; R. S. 157; 1787, V, 125; 1857, XII, 617; 1891, XX, 1195; 1919, XXXI, 59.

(7262) Procedure and Penalty in Cases of Criminal Carelessness.—If the officer shall consider that the fire be due to criminal carelessness, the person responsible for the same shall be indicted before a magistrate for a misdemeanor, and, upon conviction of the same, may be fined in a sum not exceeding fifty ($50.00) dollars, or imprisonment for not more than ten days.

Cr. C. '22, § 4417; Cr. C. '22, § 119; 1917, XXX, 361.

(1681) No Fire to Be Carried on a Bridge.—No person shall carry over, or otherwise have or place any fire on any wooden bridge, or bridge the superstructure whereof is of wood, now constructed, or hereafter to be constructed, by the authority of the legislature; and every person so offending shall, on conviction before any magistrate of the county, pay a fine not exceed-

ing ten dollars nor less than two dollars, and shall be liable for all damages occasioned thereby.

Cr. C. '22, § 628; Civ. C. '12, § 2149; Civ. C. '02, § 1419; G. S. 1112, R. S. 1229; 1827, VI, 314.

(1164) Misdemeanor to Interfere With Fire and Police Alarm Boxes.—Any person or persons who shall wilfully, maliciously or mischievously interfere with, cut or injure any pole or poles wire or wires, insulator or insulators, alarm box or alarm boxes, giving false alarm from said box or boxes, breaking the glass in said box or boxes of the fire or police alarm systems in this State, or any of the appliances or apparatus connected therewith, shall be deemed guilty of a misdemeanor and, upon conviction, shall be sentenced to hard labor in the state penitentiary, or on the chaingang in such counties having chaingangs, for a term of not less than sixty days, or the payment of a fine of not more than two hundred ($200.00) dollars.

Cr. C. '22, § 57; Cr. C. '12, § 194; Cr. C. '02, § 156; R. S. 152; 1888, XX, 8; 1904, XXIV, 382; 1931, XXXVII, 37.

(1575) Failure of Fire Inspector to Do Duty a Misdemeanor.—If the Inspector shall fail to perform the duties required of him by law, or shall give a certificate of inspection without first making the inspection required by law, or shall improperly give a certificate of inspection, he shall be guilty of a misdemeanor, and, upon conviction, shall be fined not exceeding fifty dollars, or may be discharged from office.

Cr. C. '22, § 525; 1920, XXXI, 910.

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(1923) Violation as to Mutual Insurance Company a Misdemeanor.—Any preson or corporation violating the provisions of Article 4 of Chapter 157, shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars, and the insurance commissioner shall have power to revoke the license of any such person or corporation.

Cr. C. '22, § 906; 1920, XXXI, 910.

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